UNIVERSITY OF PENNSYLVANIA

FEDERAL SUBSIDIES TO THE STATES

A STUDY IN AMERICAN ADMINISTRATION

AUSTIN F. MACDONALD

A THESIS

IN POLITICAL SCIENCE

PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF DOCTOR OF PHILOSOPHY

PHILADELPHIA

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PREFACE

The American subsidy system has come into being so unobtrusively, and has assumed its present vast proportions so recently, that it has scarcely attracted the attention of practical statesmen and students of political science. Many there are who do not realize that the scattered grants of the federal government to the states have been welded into a fairly definite system, and that they are serving as the basis of a constructive program of national supervision over state activities.

No comprehensive study of the subject has yet been made, and even short articles dealing with various phases of the topic are limited in number. The most constructive work in the field of federal subsidies seems to have been done by Dr. Paul H. Douglas, whose investigations have been published in the Political Science Quarterly, and Dr. B. A. Arneson, whose article recently appeared in the American Political Science Review. A somewhat hasty and superficial analysis is given by Mr. Douglas Sutherland, Secretary of the Civic Federation of Chicago, who began his study with the avowed purpose of exposing the defects of the system. These three treatises, together with a number of newspaper editorials and other propaganda, seem to constitute practically all the literature on the subject that had appeared in print by September, 1922.

It is hoped, therefore, that the present volume may prove of some value to those interested in the trend of American administration. The gradual development of the federal subsidy system from a mere matter of financial adjustment between the "sovereign" states and their agent, the federal government, into a powerful weapon for establishing national policies and enforcing national standards, is traced in detail. A suggestion is offered as to the principles that should guide Congress in the enactment of future

subsidy legislation. It is only too evident that no coherent principle has been followed in the past.

I wish to take advantage of this opportunity to express my indebtedness to those who have aided me in the preparation of this study—to Professor James T. Young, of the University of Pennsylvania, under whose inspiration this work was begun and under whose guidance it was completed; to Dr. Clyde L. King, Secretary of the Commonwealth of Pennsylvania, and sometime Professor of Political Science at the University of Pennsylvania, whose searching criticisms proved invaluable; to Congressman Clarence MacGregor, of New York, who placed at my disposal the results of a year's investigation of alleged misuse of federal grants; and to the chiefs of many federal bureaus, who answered my numerous and detailed questions with promptness and courtesy.

AUSTIN F. MACDONALD.

Philadelphia, September 1, 1922.

FEDERAL SUBSIDIES TO THE STATES

A STUDY IN AMERICAN ADMINISTRATION

CHAPTER I

FEDERAL AID

In the closing days of the year 1857 Justin S. Morrill, a representative from Vermont, introduced in the House of Representatives a bill providing that a portion of the public lands be granted to the several states, the proceeds from the sale of these lands to be used for the establishment and maintenance of colleges devoted to agriculture and the mechanic arts. In return the states were required only to establish such colleges and to make annual reports, through their governors, on the progress of the institutions.

It would seem that the bill proposed no very onerous burdens to be borne by the states, yet it aroused a veritable storm of protest from the Southern members in both houses of Congress. When it reached the Senate, in 1859, Clay of Alabama declared: "This bill treats the states as . . . creatures instead of creators, and proposes to give them their own property and direct them how to use it."[1]

Senator Mason of Virginia was even more emphatic in his denunciation of the Morrill Bill. "It is using the public lands as a means of controlling the policy of the state legislatures," he said. "It is an unconstitutional robbery of the Treasury for the purpose of bribing the states. Suppose the bill was to appropriate eight or ten million dollars from the Treasury, for the purpose of building up agricultural colleges in the states, would honorable senators who patronize this bill vote for the appropriation: and if they would not, why not? If they have the power to do it, and they believe it is expedient to do it, why would they not just as well take the money from the Treasury, to build up agricultural colleges, as to take public land? . . . It requires no prophet, it requires none particularly conversant with the

1. Cong. Globe, 35th Cong., 2nd Sess., p. 717.

workings of any government, more especially this, to see that in a very short time the whole agricultural interests of the country will be taken out of the hands of the states and subjected to the action of Congress."[2]

Senator Mason was championing a losing cause—that of states rights and administrative decentralization. He did not realize the need for a strong national government, a need that was setting in motion the centripetal forces of the Union. But he did foresee the transition to a new nationalism that was soon to take place, and to-day his words seem very like a prophecy. The tendency toward centralization which he recognized has become more marked with the passing of years. It was illogical to grant land to the states meeting definite federal requirements and still maintain that Congress had no power similarly to make conditional grants of money. So in the period following the Civil War the disposal of the money appropriations distributed among the states was likewise subjected to federal scrutiny. Gradually these subsidies have been increased, and at the same time the federal government has been given constantly greater supervisory powers.

In the last decade the policy of federal aid has gathered great momentum. The state legislatures have had to face a demand for a constantly higher standard of governmental service—for better schools, for better roads, for better protection. At the same time they have been met with an equally insistent demand for no further increase in the burden of taxation. The problem of getting more money without raising tax rates has become acute. State legislatures have searched diligently for new sources of revenue, and one of the most prolific sources they have discovered has been the federal treasury. The general government has been willing to aid the states financially, but only on its own terms. To these terms the states have agreed, and so the federal government has found in its hands a weapon

2. Cong. Globe, 35th Cong., 2nd Sess., p. 718.

with which it can establish national policies and national standards in fields of activity over which the Constitution has denied it any measure of control. It has not been slow to use that weapon for the purpose of enhancing its power and prestige.

An excellent example of the manner in which federal control over state affairs is secured without violating the Constitution is found in the case of venereal disease legislation. To prevent the spread of these diseases the national government grants money annually to the states, under certain conditions.[3] One of these conditions is that each state receiving the subsidy must enact legislation concerning the travel of venereally infected persons within its borders similar to federal legislation already in force with regard to persons taking interstate journeys. The national government is the judge as to whether state laws do actually conform to its own regulations, and has the power of withholding future allotments if in its judgment they do not so conform.[4]

In this manner the federal government exercises a practical control over intrastate commerce, a matter reserved to the states under the Constitution. Of course, the letter of that document has not been violated. The states are not compelled to pass legislation satisfactory to the national authorities unless they wish to receive the federal subsidy. But the inducement has proved sufficient to cause forty-six states to meet requirements, thus approaching unanimity.

It is not only in the field of venereal disease control that national uniformity and coherence are rising from the ruins of state diversity and chaos. In the last decade subject after subject formerly left entirely in the hands of the states has been brought under federal supervision by means of the subsidy system. The states have been "bribed," in the language of Senator Mason, to permit national inspec-

3. Cf. infra, ch. 7, passim.

4. Report of U. S. Interdepartmental Social Hygiene Board, 1920, Appendix D.

tion and regulation of their forests, their militia, their highways. Their need for constantly increasing revenues has forced the states to ask for federal financial assistance with growing frequency, and so they have been obliged to acquiesce in "informal amendments" to the Constitution, by means of which national standards are being established and national minimums enforced.

The federal aid policy is constantly growing in importance. Every year the states are offered still larger sums of money if they will permit a larger measure of federal supervision over their local activities. And, almost without exception, they accept. For the fiscal year ending June 30, 1922, the subsidies to the states reached the total of one hundred and eighty millions of dollars. The following table shows the purposes for which these subsidies were granted:

Total Subsidies to the States for the Fiscal Year 1922

Education:	
Support of agricultural colleges	$2,400,000.00
Support of experiment stations	1,440,000.00
Co-operative agricultural extension work	6,730,959.00
Vocational education	4,120,833.72
Industrial rehabilitation	1,017,774.65
	$15,709,567.37
Highways (Acts of 1916, 1919 and 1921)	140,051,573.00
National Guard	*20,039,442.43
Forest fire prevention	400,000.00
Prevention of venereal diseases	*1,150,000.00
Maternity and infant hygiene	1,480,000.00
State fund under mineral leasing act	*1,569,007.98
State fund from sale of public lands	*63,859.25
Total	$180,463,450.03

* 1921

The above table does not tell the entire story, however. Many thousands of acres of the public domain were transferred to the states during the fiscal year 1922. Since the

close of the World War more than one hundred and fifty million dollars' worth of surplus war material has been delivered to the states for purposes of highway construction.[5] Nearly every year the states receive in addition other grants of money which, because of their sporadic nature and the manner in which they are granted, cannot be estimated with any degree of accuracy. One hundred and eighty million dollars is therefore a conservative estimate of the amount annually placed by Congress at the disposal of the states.

What does the national government receive in return? For a small portion of this expenditure it receives practically nothing. A few of the earlier acts making annual grants of money and land were passed at a time when the spirit of localism was still strong, and the measure of control given the federal government over these subsidies was small indeed. But for more than nine-tenths of the funds annually granted to the states Congress requires a definite accounting and a large measure of federal supervision and control.

The subsidy system performs an especially useful function in the American plan of government, for it reconciles the liberty of local autonomy with the efficiency of centralized administration. It harmonizes the coflicting interests of nationalism and states' rights, and thereby solves one of the most perplexing problems facing the student of political institutions. It is not easy to determine the proper unit for the administration of public service. Purely local control of national affairs is almost certain to degenerate into the most hopeless confusion. When forty-eight states are left free to legislate on a single subject, the result is usually forty-eight different kinds of legislation, much of it contradictory. On the other hand, highly centralized control tends to become bureaucratic and cumbersome, destroying local initiative and local responsibility.

The people of America have been loath to sacrifice the

5. Cf. infra, p. 65.

autonomy of the states. Around them are clustered the traditions of free government. But it has become increasingly clear in the last few decades that the states are totally unable to cope with the vast economic and social problems confronting them. Great industrial and labor organizations have far transcended state limits, but state commissions and state laws intended to regulate these organizations have operated only within their own boundaries.

Apparently the only solution has been to transfer more and more power to the general government, and that has been the solution adopted. By interpretation, by tacit agreement, by formal amendment, by the exercise of something akin to the police power of the states—in all these ways the federal government has gradually extended its authority and its influence. Men have not been blind to the evils of excessive centralization, but they have preferred that possibility to the certainty of local anarchy and incompetence.

Recently a policy of federal aid has been adopted to unify the apparently conflicting interests of the nation and the states. Grants of money and land have been made to the states by the general government for more than a century,[6] but only within the last few years have these grants been made the basis of a thorough-going system of national supervision and control of state activities. Prior to 1911 the states were left free to do practically as they pleased with the funds they received from the national treasury. Since that date the subsidy laws have vested in the general government large supervisory powers over the expenditure of the federal grants by the states. Moreover, they have paved the way for the enforcement of minimum national standards of efficiency by vesting in federal authorities the right to withhold allotments until federal requirements have been complied with.

National standards have thus been established without

6. Cf. infra, p. 9.

the sacrifice of state autonomy. No attempt has been made to compel every state to adopt uniform plans formulated by bureau chiefs in Washington. Each is permitted to solve its own problems in its own way, with due regard to local conditions and local needs. At the same time each state is given the opportunity of benefiting by the experience of its sister states. The only limitation upon local activity is the requirement of maintaining minimum standards established by the federal authorities. Local interest in the success of each co-operative program is insured by the additional provision that for every dollar granted by the federal government the state or its subdivisions must appropriate another dollar. The requirement of "matching the federal dollar" has become a regular part of all recent subsidy legislation.

In 1921, when a bill to grant to the states one hundred dollars for educational purposes was under discussion in Congress, Senator King of Utah declared: "There was a time when the states possessed that pride which would have led them to resist these attempts to influence their local affairs and to refuse the benefactions which come from the treasury of the United States."[7] If such a time ever existed, it has long since passed into history. To-day the states are in greater need of federal funds than ever before, and they know that they must accept federal supervision and control in order to receive their share of the grants made by the general government. With surprising uniformity they have accepted the terms of the federal subsidies, and for the most part they are faithfully fulfilling their obligations. Discerning friends of state autonomy and of centralized administration alike will welcome the further extension of the federal subsidy system, for without such a check upon the centripetal forces of government the states, having demonstrated their complete incapacity to deal with the vast national problems of this era, must eventually be reduced

7. Cong. Record, v. 60, pt. 3, p. 3046.

to administrative units. And even the most ardent exponents of the new nationalism must realize that excessive centralization has its dangers. Local initiative combined with effective federal supervision is the solution of the American problem of administration.

CHAPTER II

EARLY EDUCATIONAL SUBSIDIES

a. LAND GRANTS

The first subsidy made by Congress was in 1785, when it was still meeting under the Articles of Confederation. Referring to the Northwest Territory, which had just been ceded to the general government, the ordinance provided: "There shall be reserved the lot number sixteen of every township, for the maintenance of public schools within the said township."[1] The lots were each a mile square, constituting one-thirty-sixth of a township.

The precedent of granting land to the states for educational purposes was definitely established in 1802, when the enabling act of the State of Ohio declared that "the section number sixteen, in every township, and where such section has been sold, granted, or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of each township, for the use of schools."[2]

This grant was not a gift to Ohio, but the result of a bargain. Albert Gallatin, then Secretary of the Treasury, was anxious to make the western lands of the national government attractive to prospective purchasers, and he proposed that they be exempted from taxation for a period of years after title had passed to private owners. Ohio agreed to waive its right of taxation for a term of five years from the date of sale, and in exchange it received more than seven hundred thousand acres of national lands.[3]

Following the precedent thus instituted in the case of Ohio, every state admitted into the Union since 1802, with but three exceptions, has been given land for its public

1. Journals of Congress, v. 10, p. 121.
2. 2 Stat. L., 173.
3. Orfield, M. N., "Federal Land Grants to the States," p. 41.

schools. The three exceptions, Maine, Texas and West Virginia, were all states in which no national lands existed. Until 1848 the regular practice was to grant section sixteen of each township, but in the spring of that year, when the proposal for admitting Wisconsin as a state was before Congress, Rockwell of Connecticut moved that section thirty-six also be given for the establishment and maintenance of schools. The motion did not prevail, but apparently it bore fruit, for in August of that year Congress authorized the reservation of sections sixteen and thirty-six "in the states and territories hereafter to be created out of the Territory of Oregon."[4]

After 1848 it became the regular policy of the federal government to grant two sections in each township to newly admitted states, and this policy was uniformly adhered to until 1894, when Utah was given title to four lots in each township. Congress was especially generous in its gift to Utah because the land was supposed to be of little value. The precedent of granting four sections was followed in 1910, when Arizona and New Mexico were admitted as states, though New Mexico had already been given extensive grants of land twelve years previously.[5]

The federal government has not limited itself, however, to giving the states land for common schools. A few days after the passage of the Northwest Ordinance of 1787 Congress provided "that land not amounting to more than two townships be given perpetually for the purpose of an university."[6] It soon became customary to grant each state, upon its admission into the Union, at least two townships for a university, and this policy was regularly followed until 1889.

Fourteen states have been given title to the salt lands within their borders, and nearly all have devoted the funds from the sale of these lands to educational purposes. A

4. Keith and Bagley, "The Nation and the Schools," p. 28.
5. Orfield, M. N., op. cit., pp. 48, 67.
6. Ibid., p. 53 et seq

number of states have been given their swamp lands. Under the provisions of the Act of 1841 nineteen states received five hundred thousand acres each for internal improvements, and ten of them used in whole or in part the money thus raised for schools or colleges.[7] The year 1889 marked a change in the federal policy. Since that date the internal improvement, swamp and salt grants have been discontinued, and instead specific grants have been made for a wide variety of purposes, including agricultural colleges, schools of mines, military institutes and reform schools.

In 1906 Congress provided for the payment of ten per cent. of the receipts from its forest reserves to the states in which the reserves were situated, the money to be used for public schools and public roads under the direction of the state legislatures.[8] Two years later the grant was changed to twenty-five per cent.,[9] and in 1914 twenty-five per cent. of the annual receipts from the national forests was placed at the disposal of the states containing them, for the use of their schools and highways.[10] A similar provision granting fifty per cent. of the royalties from lands containing potassium deposits became law in 1917,[11] and in 1920 was granted thirty-seven and one-half per cent. of the receipts from non-metalic mineral lands, and a similar percentage of the proceeds from licenses for the use of water power on the national domain, to be used for schools and roads.[12]

Somewhat akin to these grants is the payment to the states of five per cent. of the proceeds from the sale of the national lands within their borders. Every public land state, with the exception of three, has received this five per cent. subsidy. Ohio, Indiana and Illinois received only three per

7. Keith & Bagley, op. cit., p. 45 et seq.
8. 34 Stat. L., 684.
9. 35 Stat. L., 260.
10. 36 Stat. L., 963; 38 Stat. L., 441.
11. 40 Stat. L., 300.
12. 41 Stat. L., 450, 1073.

cent., but there was turned over to them the parts of the Cumberland Road, built by the federal government, lying within their boundaries. Congress has in each case designated the use to which this fund should be put, and in recent years has required the support of common schools.[13]

In 1837 twenty millions of dollars, which had accumulated in the United States treasury, were distributed among the states in proportion to their Congressional representation. This arrangement was particularly favorable to the more populous states of the Atlantic seaboard, which had not shared in the earlier land grants. It proved so popular that in 1841 provision was made for still further distributions; but this act did not long remain in force. Most of the states used this money, in whole or in part, for the support of schools.[14]

In return for these vast grants of money and land the federal government received practically nothing—not even the satisfaction of knowing that the funds were wisely expended. For nearly a century it left their administration entirely to the states, providing no safeguards against their misuse. The result makes a sorry tale of unwise and even dishonest finance, and of maladministration. The State of Ohio, the first to benefit by the generosity of Congress, juggled its school fund more or less successfully for a number of years, and then spent the entire endowment for its temporary needs, substituting for it an "irreducible debt," which has thus become a burden upon the taxpayers.[15] Other states have similarly squandered their heritage until little or nothing remains. Some have sold for three dollars an acre land which the following year brought twenty-five. Others have speculated in enterprises of doubtful worth. In 1919 the State Treasurer of Wisconsin declared: "If the State of Wisconsin had not practically given away its

13. Orfield, M. N., op. cit., pp. 79, 80.
14. Keith & Bagley, op. cit., pp. 55-61.
15. Ibid., p. 27.

valuable school lands years ago, we would not have to raise any school taxes for generations to come. In years gone by the State sold hundreds of thousands of acres of fine timber lands for a mere song. Had that timber been preserved . . . it would now maintain the schools of the State for generations to come without raising one cent for school purposes by taxation."[16]

At last, in 1875, after the federal government had definitely established its supremacy, it set about the task of safeguarding its future grants to the states. In that year, in the enabling act of Colorado, Congress provided for a public sale with a minimum price of two dollars and fifty cents an acre, the money thus raised to constitute a permanent fund, only the interest of which could be used for the support of schools.[17] A minimum price of ten dollars an acre was set for the school lands of the four states admitted in 1889, and in addition national control was extended by the requirement that no lease should run for more than five years or exceed one section for each individual. The funds obtained from the sale of the school lands were to be "safely invested," but this provision was so vague as to possess little practical value.[18]

In 1910, when Arizona and New Mexico were admitted into the Union, great care was taken to safeguard the lands granted to each of the new states. It was required that the funds derived from their sale be invested by the state treasurer in safe interest-bearing securities approved by two state officers, the governor and the secretary of state, the state treasurer being obliged to provide "sufficient bonds conditioned for the faithful performance of his duties." Not content with these precautionary measures, Congress declared that the "disposition of said lands, or of any money or thing of value directly or indirectly derived therefrom,

16. Keith and Bagley, op. cit., p. 32 et seq.
17. 18 Stat. L., 476.
18. 25 Stat. L., 679.

for any object other than that for which such particular lands, or the lands from which such money or thing of value shall have been derived, were granted or confirmed, or in any manner contrary to the provisions of this act, shall be deemed a breach of trust."[19]

In 1915 the legislature of New Mexico passed, over the governor's veto, an act authorizing the Commissioner of Public Lands of the state to expend three per cent. of the annual income of his office from sales and leases of lands for the purpose of advertising New Mexico's resources and advantages. This was clearly in defiance of the stipulations of the enabling act, but there was considerable doubt as to the ability of the United States to enforce the conditions of its grant. Other states had squandered the proceeds from their lands, and had never been called to account.

The Attorney General of the United States brought suit to enjoin the Commissioner of Public Lands of New Mexico from expending the funds in his possession contrary to the conditions of the federal grant. In defense of his action the Commissioner of Public Lands pointed out that the United States had made no provision for administering its subsidy, and declared that the expenditure of three per cent. for advertising purposes was a necessary and proper administrative expense.

In 1919 the Supreme Court rendered its decision, and upheld the right of the federal government to enforce its contracts with the states. The Commissioner of Public Lands of New Mexico, it held, might be restrained from using the income of his office for purposes other than those stipulated in the enabling act. "The United States, being the grantor of the lands, can impose conditions upon their use, and has the right to exact performance of the conditions," declared Mr. Justice McKenna, speaking for an unanimous court.[20] This decision has made possible a more care-

19. 36 Stat. L., 564, 575.
20. Ervien v. U. S., 251 U. S., 41.

ful and searching supervision by the national government of the administration of the lands granted by it to the several states.

b. THE AGRICULTURAL COLLEGES

The present federal subsidy system had its inception in a bill introduced in the House of Representatives by Justin S. Morrill in 1857. This measure granted twenty thousand acres to each state for each senator and representative, the money from the sale of the land to be invested, and the interest used as a perpetual fund for "the endowment, support and maintenance of at least one college where the leading object" was to be, "without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts."[21]

Despite the bitter opposition of the Southern members of Congress,[22] who feared any further extension of federal authority, the bill passed both houses; but it was vetoed by President Buchanan. Again introduced in 1861, it once more faced the virulent attacks of Southern critics, and it did not become law until 1862, after the withdrawal from Congress of every member from the seceding states. In its final form the Morrill Act contained little to alarm the foes of administrative centralization. It made almost no provision for the exercise of federal supervision or control over the expenditure by the states of the funds derived from the federal subsidy. All that was required was that reports should be made annually of the progress of each college, the sales of land scrip, and the use made of the proceeds therefrom.

The grant was increased to thirty thousand acres to each state for each of its senators and representatives. This method of distribution naturally favored the older and more thickly settled states. Massachusetts, with less than one-

21. 12 Stat. L., 503.
22. Cf. supra, p. 1.

seventeenth the area of Montana, received four times the amount of land granted to that state. Each state was required to select land within its own borders, but in case of a deficiency the Secretary of the Interior was authorized to issue land scrip for the remainder, such scrip to be sold by the state and the proceeds applied to the purposes of the act. Not more than one million acres of scrip were to be located in any state, but this maximum was exceeded in Wisconsin, and legalized by special act.[23]

An attempt was made to safeguard the funds thus created. Ninety per cent. of the money derived from the sale of land or scrip was to be invested in stocks of the United States or of the states or in other safe stocks, bearing not less than five per cent. interest. The states were required to make good any losses from the permanent fund. Ten per cent. of the endowment might be used for the purchase of experimental farms and sites for buildings, but no portion of it could be applied, "under any pretext whatever, to the purchase, erection, preservation or repair of any building or buildings."[24] This prohibition, found in numerous later subsidy laws, made certain the expenditure of state funds for the benefit of the agricultural colleges, since institutions of learning cannot be called into being without buildings and equipment.

Each state, in order to qualify under the act, had to express its acceptance of the federal offer within two years, and provide at least one college within five. These periods were later extended, however. As passed in 1862 the Morrill Act applied only to the states then in the Union, but in 1864 it was extended to West Virginia, in 1866 to Nevada, and in 1867 to Nebraska. In 1866 the interests of the future states were taken care of by a law providing that whenever a territory became a state it should become entitled to its share of the federal grant by expressing its acceptance of the act within three years and providing a

23. Orfield, M. N., op. cit., pp. 120-25.
24. 12 Stat. L., 503.

college within five years thereafter. Eventually all the states qualified, and 10,840,000 acres were distributed among them, more than two-thirds of the total being in scrip.[25]

The provisions of the Morrill Act for national supervision were totally inadequate. The state governors were required to make annual reports to Congress showing the amount of land sold and the amount of the proceeds from the sales. Each state was bound by the act to make an annual report regarding the progress of the college, the cost and results of experiments made, and such state industrial and economic statistics as might be considered useful to the Secretary of the Interior and other colleges.

But in other respects the states were left free to do as they pleased. Congress did not fix a minimum price for which the lands might be sold, with the result that most of them were disposed of at ridiculously low figures. The competition of the unsold national lands tended to force the price of the college lands down to the government price of a dollar and a quarter an acre. Some of the states that had no national lands within their borders even sold their scrip for fifty or sixty cents an acre, Pennsylvania securing but fifty cents an acre for most of its scrip, and Ohio even less.

How far short these states fell of realizing the magnificent possibilities of their endowment is made clear by comparing their action with that of the State of New York, which assigned all its scrip to Ezra Cornell at sixty cents an acre, with the understanding that he should pay for the land as he sold it, and that all receipts above sixty cents an acre should become an endowment for a university. Mr. Cornell located the scrip in the white-pine district of Wisconsin, and eventually sold most of the land at an average price of six dollars and seventy-three cents an acre. This gave Cornell University an endowment in excess of five and

25. Orfield, M. N., op. cit., pp. 123-25.

one-half million dollars.[26] What could illustrate more clearly the need for federal supervision and control?

In 1889 Congress so modified the law that states entering the Union since that time have been prohibited from selling their lands at less than ten dollars an acre, the lands being leased until they can be disposed of at the required price. This arrangement has not interfered with the establishment of the agricultural colleges, however, for the federal grants have been made security for bonds issued by the states, which pay the interest annually and use the proceeds of the bonds for educational purposes.

Federal supervision and control of the agricultural colleges were greatly increased in 1890, with the passage of the Second Morrill Act. This measure granted to each state and territory, "for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts," an annual appropriation gradually rising to a maximum of twenty-five thousand dollars, this sum to be paid to each state and territory annually thereafter, and "to be applied only to instruction in agriculture, the mechanic arts, the English language and the various branches of mathematical, physical, natural and economic science, with special reference to their applications in the industries of life and to the facilities for such instruction." A yearly report from the president of each college was required, and stipulation made that if any portion of the subsidy granted under the terms of the act were lost or misapplied, it should be replaced by the state to which it belonged. This provision was made effective by adding that until so replaced, no subsequent appropriation would be apportioned or paid.[27]

By far the most significant portion of the act, however, was the section empowering the Secretary of the Interior to ascertain whether the agricultural colleges were fulfilling the obligations imposed upon them by the federal government, and authorizing him to withhold the annual allot-

26. Keith & Bagley, op. cit., p. 74.
27. 26 Stat. L., 417.

ment to any institution in which he found conditions unsatisfactory, subject to an appeal by the state to Congress. Here at last was a weapon in the hands of a federal official with which he could force recalcitrant states into line and compel them to meet federal requirements. Here was a practical means of acquiring federal supervision over state activities. The weapon was no less potent because each state had the alternative of refusing the federal subsidy. The alternative was one in theory only; in practice the states hastened to comply with the provisions of the act, in order to render themselves eligible for the promised federal aid. The secret of successful centralized administration had been discovered; it needed only to be tested and refined.

In 1907 an amendment to the Second Morrill Act increased the total subsidy to fifty thousand dollars annually to each state and territory, and provided that a portion of the funds might be used "for providing courses for the special preparation of instructors for teaching the elements of agriculture and the mechanic arts."[28] The administration of these various acts was entrusted to the Bureau of Education, which had been established in the Department of the Interior in the late sixties. Representatives of this Bureau visit the agricultural colleges every year, and in addition examine the printed reports of the institutions. The laws are strictly construed, and no expenditures from federal funds are approved other than those for which Congress has definitely provided. For example, while the salaries of certain teachers may be paid from the federal subsidy, the salaries of purely administrative officers, such as presidents, secretaries and bookkeepers, may not. Instructors in English may be paid from federal funds, but not instructors in French or Spanish, since the latter subjects are not mentioned in the acts of 1890 or 1907.[29] The Bureau of Education has found from experience that it is unneces-

28. 34 Stat. L., 1256, 1281.

29. "Federal Legislation, Regulations and Rulings Affecting Agricultural Colleges and Experiment Stations," Bulletin of the States Relations Service, pp. 12-14.

sary to withhold the annual allotments, since the mere threat of doing so is sufficient to force the states to comply with the requirements of the law.[30]

From the standpoint of administrative efficiency, the various acts relating to the agricultural colleges have many defects. The supervisory powers of the Bureau of Education are narrowly restricted, and its activities consist largely in preventing the state colleges from violating the explicit provisions of federal statutes rather than in formulating constructive programs of work. It must be remembered, however, that these acts were the first attempt to co-ordinate the chaotic activities of the several states into an uniform national plan, and that, despite their imperfections, they mark the beginning of a new era in American administration.

c. THE EXPERIMENT STATIONS

In 1887 Congress provided for an annual appropriation of fifteen thousand dollars to each state and territory for the establishment and maintenance of an experiment station in connection with each of the agricultural colleges established under the Morrill Act of 1862. These stations were required to conduct "researches or experiments bearing directly on the agricultural industry of the United States," having due regard to varying local conditions and needs. Twenty per cent. of the first appropriation, and five per cent. of subsequent allotments, were made available for the purchase and repair of necessary buildings. In addition to their annual reports the experiment stations were directed to publish quarterly bulletins setting forth the results of their investigations.[31] The assent of the legislature to the terms of the act was required, but in the following year authority was given the governors of the several states to accept provisionally the federal grant when their legislatures were not in session.[32] This provision has been incor-

30. Report of the Commissioner of Education, 1921, passim.
31. 24 Stat. L., 440.
32. 25 Stat. L., 176.

porated in all later subsidy legislation.

The Hatch Act, as the statute establishing the agricultural experiment stations is commonly known, made no real advance over the First Morrill Act in the matter of federal control. The only section providing for co-operative relations between the general government and the stations declared that "in order to secure, as far as practicable, uniformity of methods and results in the work of said stations, it shall be the duty of the United States Commissioner of Agriculture to furnish forms, as far as practicable, for the tabulation of results of investigation or experiment; to indicate from time to time such lines of inquiry as to him shall seem most important, and, in general, to furnish such advice and assistance as will best promote the purpose of this act."[33] No means was provided for compelling the stations to accept and profit by this advice and assistance. There was practically no supervision over state expenditures.

This condition of affairs remained unchanged until 1906, when the passage of the Adams Act increased the annual subsidy, after a five-year transitional period, to thirty thousand dollars for each state and territory, "to be applied only to paying the necessary expenses of conducting original researches or experiments bearing directly on the agricultural industry of the United States."[34] Any state losing or misapplying a portion of its annual subsidy was required to replace it before it could receive further allotments, and the Comptroller of the Treasury subsequently ruled that this provision would not be met by simply withholding from the next appropriation an amount equal to that lost or misapplied.[35]

By the terms of the Adams Act federal control over the experiment stations was greatly extended. Each station was required to present annually a detailed statement of

33. 24 Stat. L., 440.
34. 34 Stat. L., 63.
35. 18 Comp., Dec., 120.

receipts and disbursements of federal funds on schedules prescribed by the Secretary of Agriculture, and that officer was authorized to withhold the allotment to any station not complying fully with the conditions prescribed, subject to an appeal to Congress.[36]

The provision permitting the state agency to appeal to Congress over the head of the federal bureau administering the act is found in almost every statute granting federal aid to the states, and is an unfortunate feature of the American subsidy system, since it makes possible the subordination of administrative policies to the ofttimes inharmonious interests of members of Congress. Happily, the states have not abused this prerogative. It seems that only one appeal has ever been taken under any of the numerous subsidy laws.

This single instance occurred in 1918, when the Georgia Experiment Station appealed from the ruling of the Secretary of Agriculture withholding its annual allotment of federal funds. The dispute was one of long standing. The Georgia Experiment Station had been established originally as a department of the college of agriculture connected with the state university at Athens, in accordance with the requirements of the Hatch Act. As soon as the state legislature met, however, it subjected the situation of the station to bids from different sections of the state, and gave authority to move the station to the point selected. A board was appointed which was separate from that of the state agricultural college, and this board finally established the station at Griffin. All this happened before 1895, when the Department of Agriculture was given supervision over the stations. The Department realized that the location was out of harmony with the law; but the station was fairly successful, and there was some reason to think that sooner or later it would be moved back to Athens.

When politics began to enter the station several years

36. 34 Stat. L., 63.

later the Department of Agriculture took a hand, and it was assured from year to year that efforts would be made in the legislature to move the station. Finally, as there had been considerable trouble with the management resulting in disallowances of the funds and the appointment of a director who was without the necessary scientific qualifications, the Department suspended the federal allotment, pointing out in its report that the station was not complying with the law. The members of Congress from Georgia exerted themselves in behalf of the station, and ultimately Congress legalized its location as a separate institution and under a separate board, though without relieving it from the same federal supervision and control of its funds as that exercised over the other stations. The Department of Agriculture finally reached a settlement with the Georgia station on items of expenditure which could be allowed under its interpretation and the director resigned, a member of the station staff being appointed in his place. This unfortunate affair emphasized the necessity of freeing the officials administering the subsidy laws from legislative interference.[37]

The Hatch and Adams Acts are administered by the States Relations Service of the Department of Agriculture,[38] which makes an annual inspection of the work and expenditures of the stations in the several states, and an examination of their publications and financial reports. In connection with the yearly inspection, which is carried on by five representatives of the States Relations Service, a detailed review is made of the work in progress and accomplished, and of the use made of federal funds, and conferences are had with administrative officers and members of the staff on matters relating to the organization and conduct of the station work. The personal visits are supplemented by extensive correspondence throughout the year. By agreement with the station directors the plans of work are submitted

37. Correspondence. States Relations Service and the Ga. Experiment Station; "Work and Expenditures of the Agricultural Experiment Stations, 1918," p. 6; Report of the Ga. Experiment Station, 1917-1918, pp. 4-8.

38. Cf. infra, p. 29.

in advance, and if it appears that any expenditures violate the provisions of the federal statutes the States Relations Service endeavors to have the objectionable outlays removed from the financial reports by bringing the matter to the attention of the station directors. In case expenditures have been made from state funds which would be appropriate under the federal laws, these are substituted for the items in question. Otherwise, the amounts deducted under the rulings of the States Relations Service are reported as "unexpended balance" and deducted by the Treasury from the following year's appropriation.

In almost every instance this arrangement has produced satisfactory results, though occasionally it has been found necessary to withhold the succeeding allotment until satisfactory arrangements could be made with the state for the proper expenditure of federal funds. In only the one case cited has the withholding of the appropriation been reported to Congress for final settlement. The States Relations Service interprets strictly the provisions of the federal laws, and rejects expenditures for such items as the salaries of officers engaged in teaching instead of research, apparatus not used for experimental purposes, publications not recording experimental work, and farm operations not involving experiments.[39]

In exchange for this somewhat scant measure of supervision and control the federal government had paid to the states by the end of the fiscal year 1922 subsidies totaling more than thirty-five millions of dollars for the establishment and maintenance of agricultural experiment stations.[40] This sum, however, was but a fraction of the entire amount expended by the stations. In 1919, for example, the federal grant of nearly one and one-half millions was less than one-fifth of their total revenue from all sources.[41] These figures

39. Correspondence, States Relations Service; Reports of the office of Experiment Stations, 1918, p. 7; 1919, p. 85 et seq.
40. Report of the Office of Experiment Stations, 1919, p. 94.
41. Ibid., pp. 88-89.

make it appear that the federal government is purchasing very cheaply the right to direct the activities of the agricultural experiment stations to national needs, and to secure the result of their researches for the benefit of the people of the nation.

CHAPTER III

RECENT SUBSIDIES FOR EDUCATION

a. CO-OPERATIVE AGRICULTURAL EXTENSION WORK

About the year 1900 the Department of Agriculture inaugurated a system of farm demonstrations through its agents working in the Southern States. The farmers of each locality were induced to grow particular crops under the supervision of the Department's representatives. So successful was this experiment that in 1906 several counties began to contribute toward the salaries of these agents, with the understanding that their activities should not be dissipated over a wide area, but that each agent should be limited to the county making the contribution, where he could do more intensive work. The value of this service led other counties throughout the South to adopt the plan, and in 1912 an appropriation by Congress of one hundred and sixty-five thousand dollars made possible the extension of the system to other parts of the country.[1]

Two years later federal supervision of the nation's agriculture was definitely assured by the passage of the Smith-Lever Act, which provided for co-operative agricultural extension work between the United States Department of Agriculture and the land grant colleges in the several states, to "consist of the giving of instruction and practical demonstrations in agriculture and home economics to persons not attending or resident in said colleges in the several communities, and imparting to such persons information on said subjects through field demonstrations, publications, and otherwise."[2]

This statute, which marked a decided advance over prev-

1. "Co-operative Extension Work in Agriculture and Home Economics, 1919," U. S. Dept. of Ag. Bulletin, p. 7; Douglas, Paul H., "Development of a System of Federal Grants in Aid," Political Science Quarterly, v. 35, p. 258.
2. 38 Stat. L., 372.

ious subsidy legislation, made a series of appropriations increasing annually by five hundred thousand dollars until the fiscal year 1923, after which the total annual subsidy to the states for co-operative agricultural extension work was to be four million, five hundred and eighty thousand dollars. Every precaution was taken to safeguard these funds. In addition to the detailed statements of receipts and expenditures required from the agricultural colleges, the act prescribed an annual report from each state treasurer concerning the receipt and disbursement of federal funds. Following the example of the earlier laws granting federal aid, the Smith-Lever Act provided for replacement by the state of money lost or misapplied, under penalty of withholding further allotments. No portion of federal funds was to be used for buildings or land, and expenditures for the printing and distribution of publications were limited to five per cent. of each appropriation. The legislative assent of each state was required, and provisional acceptance by the governor permitted. Plans for the extension work to be carried on were to be submitted by the proper officials of each college to the Secretary of Agriculture, who was given authority to withhold the allotment to any state.[3]

In addition to the above features, however, the Smith-Lever Act contained two new and highly significant provisions. One was the basis of apportionment of the federal subsidy. Most of the earlier laws had allotted an equal amount to every state, regardless of its needs. The new act, after granting ten thousand dollars to each state, provided that the remainder should be distributed in the proportion which the rural population of each state bore to the rural population of all the states, as determined by the last preceding federal census. This more rational method of apportionment has done much to insure the popularity of the subsidy system. If millions of dollars are to be distributed annually to the states from the federal treasury,

3. 38 Stat. L., 372.

great commonwealths like New York and Ohio cannot be expected to agree to an arrangement that will give them no more than states such as Rhode Island and Delaware. The proportionately greater needs of the larger states must be definitely recognized. On the other hand, the ten thousand dollar subsidy to each state, regardless of its population or size, makes certain that no commonwealth will lack adequate funds to carry out a profitable program of agricultural extension work.

The other significant section of the act stipulated that "no payment out of the additional appropriations herein provided shall be made in any year to any state unless an equal sum has been appropriated for that year by the legislature of such state, or provided by state, county, college, local authority, or individual contributions from within the state, for the maintenance of the co-operative agricultural extension work provided for in this act."[4] This plan of requiring the states to "match the federal dollar" has been incorporated in all subsequent legislation granting federal aid, and has proved of great value. Not only has it stimulated local initiative and created a feeling of local responsibility, but it has vastly increased the funds available for co-operation between the federal government and the states.

Following the approval of the Smith-Lever Act the Secretary of Agriculture appointed four of his subordinates as a committee to supervise its administration. This committee drew up an agreement between the Secretary of Agriculture and the heads of the state agricultural colleges, under the terms of which the co-operative extension work was to be conducted. It was becoming increasingly clear, meanwhile, that the organization of the Department of Agriculture was not adequate to meet its new duties. Relations with the states were becoming more numerous and more complex, and state activities were not scrutinized with the thoroughness and care contemplated by federal legislation. In 1915

4. 38 Stat. L., 372.

the Department was reorganized, and the Office of Experiment Stations, which had been entrusted with the administration of the Hatch and Adams Acts, was transformed into the States Relations Service, though retaining its separate identity within the new bureau. The States Relations Service was given charge of all the co-operative relations of the Department with the state agricultural colleges, including the administration of the Smith-Lever Act.[5]

Under the terms of the memorandum agreed upon between the Department and the colleges, each college maintains a definite and distinct administrative division for the management and conduct of extension work in agriculture and home economics, in charge of a responsible director selected by the college and acceptable to the United States Department of Agriculture, administering through the extension division thus organized all funds received for such work from appropriations made by Congress or the state legislature, by allotment from the board of trustees of the college, or from any other source.[6] The college extension directors submit their plans to the States Relations Service, which makes suggestions based upon its study of extension work in the United States and in foreign fields, and disallows expenditures incompatible with federal legislation. From time to time it has been obliged to veto such items as the travelling expenses of boys and girls intending to take short courses at the colleges, publications announcing courses of study at those institutions, and the purchase of uniforms and badges, as none of these could properly be included under the head of extension work. The extension directors have agreed to these disallowances, and it has therefore been found unnecessary to withhold federal funds.[7]

But the most fundamental contribution of the States Relations Service, in its administration of the Smith-Lever

5. Wanlass, Wm. L., "The U. S. Department of Agriculture," Johns Hopkins Univ. Studies in Historical and Political Science, XXXVIII, No. 1, passim.

6. Statistics of Co-operative Extension Work, 1921-1922. U. S. Dept. of Ag. Circular No. 203.

7. Correspondence, States Relations Service.

Act, to the federal subsidy system is found in the work of the county extension agents. The county agent, so called because his work is usually limited to a single county, receives his salary in part from the federal government, and in part from state or local funds. He is responsible to the state extension director, but must conform to federal regulations respecting reports of work performed, leaves of absence with or without pay, and the like. He is thus a representative of both the federal and state governments, forming in his dual capacity the link necessary for thorough understanding and sympathetic co-operation between the nation and the states.

The county agents are usually selected from among the graduates of the agricultural colleges. Their duty is to disseminate information regarding proper methods of farming, and this they do, wherever possible, by means of personal contact with the rural population. They conduct actual demonstrations on the farmers' own land, explaining the proper use of fertilizers and showing how to prune, spray and otherwise care for trees. They explain the need for terracing the farms and encourage the erection of silos. They even furnish plans for homes, suggest how farm buildings should be constructed, help establish new pastures, and renovate old. Through the Bureau of Agricultural Economics, which was known as the Bureau of Markets and Crop Estimates until the summer of 1922, they sell nitrate of soda direct to the farmers. Women employed as demonstrators carry on similar work in and about the homes. They teach gardening and poultry raising, and show how to preserve foods. The family dietary is given special attention, and suggestions are made for increasing the conveniences and comforts of rural life. Women and girls are taught how to sew.

In many other ways the county agents render themselves almost indispensable to the farming population of the country. They answer thousands of requests for informa-

tion coming to them by mail, and distribute the publications of the United States Department of Agriculture and of the state agricultural colleges, in addition to preparing articles of their own for publication. They visit the schools of the counties in which they work, frequently giving advice in outlining agricultural courses; and at the fairs they give demonstrations. Perhaps their most important work, however, is the organization of county farm bureaus, consisting of men, women and children. These bureaus are voluntary associations which stimulate a spirit of friendly rivalry among the farmers, and aim for the improvement of agriculture. Boys and girls are encouraged to form teams and enter into competition as to the largest pig raised or the greatest amount of fruit and vegetables canned. Throughout the South special help is given the negro. Colored agents, about one hundred and fifty in number, work exclusively among their own people; but white agents are instructed to aid the negroes in every way possible.[8]

The states realized at once the importance of the work carried on by the county agents under the Smith-Lever Act, and it was not long before every state legislature had accepted the provisions of the federal statute and appropriated sufficient money to match its allotment. Congress continued to make large direct appropriations to the States Relations Service for co-operative demonstration work, and also to other bureaus of the Department of Agriculture for similar purposes. In 1919 Congress made an additional grant to the states of one million, five hundred thousand dollars, "to be allotted, paid and expended in the same manner and upon the same terms and conditions as provided under the Smith-Lever Act."[9] This supplementary grant has been continued for subsequent years.[10] Only about forty per cent. of the federal subsidy was met by direct state appropriations in

8. "Co-operative Extension Work in Agriculture and Home Economics, 1919," S. R. S. Bulletin, passim; correspondence, S. R. S.; Wanlass, Wm. L., op. cit., p. 60 et seq.
9. "Federal Legislation, Regulations, and Rulings Affecting Agricultural Colleges and Experiment Stations," S. R. S. Bulletin, p. 44.
10. 41 Stat. L., 261, 720, 1339.

the fiscal year 1921, the rest of the money necessary to match the federal allotment being raised by the counties and other local units. The following year the states' share had sunk to less than thirty per cent., the burden placed upon the counties being correspondingly increased.[11]

Under the administration of the States Relations Service the agriculture of the nation is gradually being modeled along lines approved by the experts of the federal government. Special attention is paid to the South, which most needs assistance and guidance; in fact, until October, 1921, the extension work was carried on through two separate offices, one dealing with but fifteen Southern states and the other caring for thirty-three states of the North and West.[12] Every section of the country, however, is benefitted to some extent. By the end of 1921 more than two-thirds of the agricultural counties of the United States were supplied with county agents, whose work was supplemented by the activities of seven hundred women demonstrators.[13] The total number of extension workers exceeded thirty-seven hundred.[14]

The federal government contributed only about thirty-five per cent. of the total funds expended on agricultural extension work in the United States during the fiscal year 1921, yet by granting that portion to the states it secured the right to supervise the expenditure of the whole, and to stimulate the agricultural development of the entire nation. The Smith-Lever Act, by providing a more satisfactory basis of apportionment and requiring the matching of federal funds, molded the American subsidy system into its present form, and made it a practical device for securing effective centralized administration.

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11. "Statistics of Co-operative Extension Work, 1921-22," U. S. Dept. of Ag. Circular No. 203, pp. 6-11.
12. Report of the Director of the S. R. S., 1921, p. 4.
13. U. S. Dept. of Ag. Circular No. 203, pp. 17-18.
14. Ibid., p. 4.

b. VOCATIONAL EDUCATION

In 1917 Congress passed a subsidy law which carried the principle of federal supervision and control of state activities farther than any of its predecessors. This statute, commonly known as the Smith-Hughes Act, provided for a comprehensive system of vocational training in the common, wage-earning employments, omitting entirely all academic studies. An annual appropriation was made, rising gradually to three million dollars by 1926, to be used in "co-operating with the states in paying the salaries of teachers, supervisors or directors of agricultural subjects." This subsidy was to be distributed in the proportion which the rural population of each state bore to the rural population of all the states, as determined by the last preceding federal census. The minimum allotment to any state was to be five thousand dollars prior to and including 1923; after that year it was to be ten thousand.[15]

A similar appropriation, with a similar minimum, was made "for the purpose of co-operating with the states in paying the salaries of teachers of trade, home economics and industrial subjects," to be apportioned to the states on the basis of their urban population. Still another section appropriated a sum reaching a maximum of a million dollars annually by 1921, "for the purpose of co-operating with the states in preparing teachers, supervisors and directors of agricultural subjects and teachers of trade and industrial and home economics subjects." This money was to be allotted to the states on the basis of total population, the minimum to each state after 1919 being ten thousand dollars.

The Smith-Hughes Act created a Federal Board for Vocational Education, consisting of the Secretaries of Agriculture, Commerce, and Labor, the United States Commissioner of Education, and three citizens of the United States appointed by the President, by and with the advice and con-

15. 39 Stat. L., 929.

sent of the Senate. The three appointed members were to represent, respectively, the manufacturing and commercial interests, the agricultural interests, and labor. This board was charged with the administration of the act, and also directed to make studies, investigations and reports, with particular reference to aiding the states in the establishment of vocational schools and classes and in giving instruction in the various subjects provided for. An annual appropriation of two hundred thousand dollars was made for this work.[16]

As in previous subsidy legislation, each state was required to accept the terms of the act through its legislature, or provisionally through its governor, and to appoint its treasurer custodian of federal allotments. There was the usual provision for matching the federal dollar, the state money appropriated for this purpose to be used exclusively for the training and salaries of teachers. Expenditures for buildings, equipment and other requisites were to be made entirely by the states, the total resources brought under federal supervision thus being far in excess of double the federal subsidy.

Another condition upon which the grant was given was that each state should designate or create a board, consisting of not less than three persons, vested with the necessary power for co-operating with the newly created Federal Board for Vocational Education in the administration of the act. Permission was given to designate the state board of education or any other body having charge of public education or any kind of vocational training within the state.

The Smith-Hughes Act imposed several specific obligations upon the state boards. They were required to prepare in considerable detail plans showing the manner in which they contemplated using the joint federal and state funds, and to submit them to the Federal Board for approval. These proposals were to set forth the kinds of voca-

16. 39 Stat. L., 929.

tional education to be developed, the kinds of schools and equipment to be provided, the courses of study to be offered, the methods of instruction to be adopted, and the qualifications to be required of teachers. Annual reports to the Federal Board were to record accomplishments, and also to show receipts and expenditures of money under the provisions of the act. On the basis of these reports and of its own investigations the Federal Board for Vocational Education was to determine whether the states were meeting their obligations, and to withhold allotments from states in which conditions were found to be unsatisfactory. Each state was given the right to accept the benefits of one or two of the three separate grants made for vocational education by different sections of the statute without accepting them all, its obligations then being limited to those imposed in connection with the subsidies it received. The minimum allotment for the training of teachers had to be accepted, however, if anything were to be accepted for teachers' salaries.[17]

The plans submitted by a state board, when accepted by the Federal Board for Vocational Education, constitute a contract between the national government and the state, running for a year and terminable before the end of that period only by mutual consent. The nature of these proposals is not left to the discretion of the state boards, but is subjected to very definite requirements, prescribed in part by the Federal Board and in part by the terms of the Smith-Hughes Act. The education provided by the state boards must be of less than college grade, thus rounding out the system inaugurated with the establishment of the agricultural colleges. The controlling purpose of this education must be to fit for useful employment, and it must be designed primarily to meet the needs of persons over fourteen years of age, though there is no absolute prohibition upon the training of younger children.[18]

17. 39 Stat. L., 929.
18. Bulletin No. 1, Federal Board for Vocational Education.

The Federal Board for Vocational Education makes no attempt to establish uniform standards for every section of the country; on the contrary, it will permit wide variations between different states because of different social, industrial and economic conditions. In the South, where separate schools are maintained for negroes, it will accept lower standards for the colored than for the white schools, realizing that all the institutions cannot immediately be brought to the desired degree of efficiency. It does strive, however, to establish a national minimum below which no school aided by national funds will fall, and for that purpose it exercises freely its discretionary powers.

The Federal Board reaches an agreement with each state board as to the minimum plant and equipment necessary to carry out the joint plans, and makes certain through its field representatives that this plant and equipment are provided and adequately maintained. Federal requirements are definite, leaving the states no opportunity to temporize. This is illustrated by the requirements relating to agricultural training. Each agricultural school is expected to have a farm of suitable size and equipment to give supervised farm practice to all pupils enrolled in agricultural courses, as well as laboratories properly equipped for giving instruction in the related sciences of agriculture. When a department of agriculture is established in a high school, it is required to have equipment costing about five hundred dollars for each twenty pupils. A room designed primarily for instruction in agriculture, containing movable tables and chairs, must be provided, and also sufficient apparatus to demonstrate the ordinary improved scientific methods of testing milk, incubating eggs, grafting trees, testing soils, making butter, and the like. There must be suitable room for storing this equipment, and for preserving fruits and vegetables. A satisfactory collection of books and bulletins must be on hand, in addition to farm papers and periodicals. All this, and more, the Federal Board for

Vocational Education requires, and its own agents see that its demands are met by the state boards. Yet the federal government contributes not a single cent toward procuring or maintaining the buildings and equipment needed for carrying on the work of vocational education, and it pays but half the salaries of the teachers. The cost of securing federal supervision and control of the entire field of vocational training is small indeed.[19] More leeway is given the states in the selection of teachers of agricultural subjects, because of the difficulty of securing men qualified for the work. The standard ultimately to be set is the completion of a four-year agricultural college course and at least two years of successful farming experience.

In regard to the training of industrial workers the requirements of the Federal Board for Vocational Education are as specific as in the field of agriculture. The Board reaches an agreement with each state as to the types of schools to be established and the courses of training to be prescribed. Not only must the equipment provided by the states be standard in every respect, but much of it must be replaced frequently because of the changes brought about by inventions and improvements in nearly all trades. The Board also requires and standardizes courses of supplementary instruction not related directly to vocational training, although such courses may not be subsidized out of federal funds. This is another example of the extent of federal supervision secured by means of the relatively small grants of the Smith-Hughes Act.[20]

Though the statute creating the Federal Board for Vocational Education was signed about three months after the United States entered the World War, it was in no sense intended as a war measure. It was generaly realized that the nation could no longer afford to neglect the training

19. Bulletin No. 13, F. B. for V. E.
20. Bulletin No. 17, F. B. for V. E.

of its skilled workers, since agricultural and industrial development had made impossible the efficient training of such workers in the course of their duties. The states were eager to accept the federal offer, and within a period of ten months after the organization of the Federal Board for Vocational Education every state in the Union had officially expressed its acceptance of the act, agreeing thereby to a measure of federal supervision over state activities that would have been intolerable to the strict constructionists of another day.

In order to qualify for federal allotments the states have built up legislative policies fundamentally established upon the Smith-Hughes Act. They have provided for more or less elaborate supervision of different types of vocational schools, the whole machinery being organized with reference to federal requirements. They have rapidly developed their facilities for giving instruction to boys and girls between the ages of fourteen and eighteen who have left school, and they have adjusted the provisions of their compulsory school attendance and child labor laws to the new legislation providing part-time instruction for juvenile workers during the period of transition from school work to gainful employment. A great many of these state laws have been provisionally drafted by agents of the Federal Board, who understand the requirements of the Smith-Hughes Act and who have an opportunity to compare the results obtained in different states by means of different legislation. The Board has not attempted to dictate to the states, however, in the matter of formulating laws necessary to supplement the federal statute, but has merely given the services of its experts at the request of state officials.[21]

The actual work of administering the Smith-Hughes Act devolves upon a staff appointed by the Federal Board for

21. Annual Report of the F. B. for V. E., 1921, pp. 17-23.

Vocational Education. This staff consists of a director who acts as the executive officer, four assistant directors in charge respectively of agriculture, industrial education, home economics, and research, and agents reporting directly to the assistant directors. The agents for home economics remain in Washington; the others are assigned to the five different regions into which the country has been divided by the Board. The field agents gather information regarding the methods adopted by the state boards, and inspect the work of these boards in so far as it relates to federal activities.[22]

One section of the federal statute provides that "whenever any portion of the fund annually allotted to any state has not been expended for the purpose provided for in this act, a sum equal to such portion shall be deducted by the Federal Board from the next succeeding annual allotment. . . . "[23] This clause has tended to guard against wasteful expenditures, and has resulted in a slight reduction in the annual subsidies to the states. For the fiscal year 1922 about six per cent. of the total grants for vocational education was withheld by the Federal Board, the sum kept back corresponding to the unexpended balance in state treasuries.[24]

The passage of the Smith-Hughes Act in 1917 marked the highest peak yet reached in the development of the federal subsidy system. The states were required to expend far more than they received from the federal government in the establishment of schools for vocational education, and federal control was definitely extended over the expenditure of both state and national funds. National policies were made the basis of a co-ordinated national system of voca-

22. Bulletin No. 1, F. B. for V E.
23. 39 Stat. L., 929.
24. Annual Report of the F. B. for V. E., 1921, p. 291 et seq.

tional training, supported in large measure by state and local funds, and adjusted to local needs.

c. INDUSTRIAL REHABILITATION

The duties of the Federal Board for Vocational Education were greatly increased in the spring of 1920, when it was entrusted with the administration of an act making an annual subsidy to the states "for the promotion of vocational rehabilitation of persons disabled in industry or in any legitimate occupation and their return to civil employment."[25] Interest in the movement was widespread, for the number of workers disabled every year in the normal course of industry exceeded the total number of American soldiers and sailors incapacitated during the entire course of the World War. It was clearly essential that the injured workers of the country be trained for useful employment . A man unable to support himself is a social liability. Several states were already in the field under their own laws before the federal government initiated its program of co-operation. Twelve had provided in some manner for disabled workers, and three had arranged in advance for the acceptance of the federal statute when it should be passed.[26]

The Industrial Rehabilitation Act granted seven hundred and fifty thousand dollars to the states for the fiscal year 1921, and one million dollars thereafter, to be distributed on the basis of population, with a minimum annual allotment to any state of five thousand dollars. As usual, the states were required to accept the provisions of the law, match the federal subsidy, and appoint their treasurers custodians of the federal funds. The board in each state appointed for the purpose of administering the Smith-Hughes Act was to be empowered to co-operate with the Federal Board for Vocational Education in carrying out the provi-

25. 41 Stat. L., 735.
26. Annual Report of the F. B. for V. E., 1921, p. 25.

sions of the new federal statute, and was to submit annually to the Federal Board plans showing the kinds of vocational rehabilitation of injured workers for which the appropriation was to be used, the system of administration and supervision, the courses of study, the methods of instruction, the qualifications of teachers and the manner of training them.[27]

Within a year after the passage of the Industrial Rehabilitation Act thirty-five states had accepted its provisions, and all but two of them had actively entered into co-operation with the federal government. The actual work of rehabilitation is carried on by the agents of the state boards, who determine the eligibility of individual cases. In this matter they are guided by the general policies established by the Federal Board.[28] The complete program includes the selection of a suitable occupation for the injured worker, preparation for the chosen task, and finally the procuring of employment, all three processes being handled by the same person in any given case.

As soon as a report is received of a person injured in industry, an agent of the state board visits him for the purpose of determining his physical, mental and economic resources. After a thorough study of the information thus obtained, the state board determines the occupation for which the disabled person is best qualified, or for which he can be trained to qualify. The next stage in the plan of rehabilitation involves whatever provisions are made for his establishment in an occupation, or in a course of training. It frequently happens that the incapacitated person is found to be qualified to enter without training some form of employment, and he is thereupon placed in such employment and followed up until it is definitely established that

27. 41 Stat. L., 888.
28. Bulletin No. 57, F. B. for V. E.

he can succeed in competition with the average worker.

The state rehabilitation service does not delegate the placement of its applicants to employment bureaus, but carries on this work through its own agents. If the plan of rehabilitation involves a program of preparation for a particular occupation, the applicant is given some form of training at the earliest possible moment. Suitable educational institutions are utilized, as well as tutors, correspondence schools, and whatever training facilities exist in industrial or commercial establishments. The rehabilitation service thus places its proteges in already existing schools giving the kind of training desired, or, if such facilities are not available, resorts to what is known technically as employment training. In this event an agreement is made with an employer to organize within his own establishment a program of instruction and practice devised in many instances for the particular case. Throughout the training, whether in an institution or in an industrial or commercial establishment, the disabled person is periodically followed up, not only for the purpose of ascertaining his progress but to render whatever assistance the state board can give to further the work of rehabilitation.

After the completion of the training program comes the securing of appropriate employment. In the case of employment training, the period of apprenticeship frequently merges naturally into employment, but in the case of institutional instruction there is usually a period of waiting. In either case the applicant for rehabilitation is supervised while in employment and followed up periodically for the purpose of determining whether he is able to compete successfully with normal workers. When he demonstrates his ability to do so, rehabilitation may be said to have been effected.[29]

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29. Annual Report of the F. B. for V. E., 1921, p. 310 et seq.

The duties of the Federal Board for Vocational Education in connection with the Industrial Rehabilitation Act are largely supervisory. It examines and approves or rejects the plans of the state boards. Its agents visit each state several times a year, and ascertain that the work is being carried on in accordance with the provisions of the federal statute. By means of the data which they supply and of the detailed reports submitted yearly by the state boards, the Federal Board determines whether each state is entitled to its share of the annual subsidy, withholding the allotment to any state not meeting federal requirements.[30] The state expenditures for the vocational rehabilitation of persons injured in industry far exceed the federal grant for that purpose; during the fiscal year 1921 the states spent more than two dollars for every dollar advanced by the general government.[31] The entire fund, however, is brought under national supervision, so that the relatively small federal subsidy insures the continued development of a unified system of vocational rehabilitation.

30. 41 Stat. L., 888.
31. Annual Report of the F. B. for V. E., 1921, p. 345.

CHAPTER IV

FOREST FIRE PREVENTION

The Weeks Act, passed in 1911, foreshadowed the rapid extension of federal supervision over state activities by means of an elaborate system of subsidies. This statute made an appropriation of two hundred thousand dollars, available until expended, "to enable the Secretary of Agriculture to co-operate with any state or group of states, when requested to do so, in protection from fire of the forested watersheds of navigable streams."[1] The Secretary of Agriculture was given wide discretionary powers, only three limitations being placed upon the use of federal funds. One was that they should be devoted entirely to the protection of private or state forest lands situated upon the watersheds of navigable rivers; another was that they should not be allotted to any state unless it had itself provided for a system of forest fire protection; and the third, that the federal expenditure in any state should not exceed in any fiscal year the state appropriation for the same purpose. Here in embryonic form were the characteristic features of the American subsidy system—state autonomy combined with federal supervision, and state matching of federal funds. The original grant was soon expended, and yearly appropriations of one hundred thousand dollars were made by Congress until 1921, when the annual subsidy was raised to one hundred and twenty-five thousand. The following year it was increased to four hundred thousand dollars.[2]

Co-operation with the states under the terms of the Weeks Act began in the spring of 1911, and the Forest Service of the Department of Agriculture was charged with

1. 36 Stat. L., 961.
2. 39 Stat. L., 1166; 40 Stat. L., 1005; 41 Stat. L., 268, 1344.

the administration of the federal statute. Eleven states applied for and received allotments the first year, having met the conditions of the grant.[3] This number was increased from time to time, until by 1920 twenty-five states were co-operating with the federal government in the prevention of forest fires.[4] Alabama, Florida, South Carolina and Missouri were refused federal assistance because they had no legislative provision for fire protection of forested lands.[5]

One of the first problems that awaited solution was the method of making allotments to the states. Two ways were open, one being to give the states the money in a lump sum, to be expended as they saw fit subject to federal approval; the other, to set aside a definite amount for each state and make the expenditures directly from the Forest Service office. The latter plan was adopted, and has proved eminently successful. A specific agreement is made with each state, with such variations in detail as local conditions require. The state supplies the Forest Service with a comprehensive fire plan, which includes maps showing the areas to be protected, the headquarters and approximate routes of patrolmen, and all features necessary to a clear understanding of the state's plan of fire control.

Except for a nominal salary to the state forester, the expenditures made by the federal government are exclusively for the salaries of federal patrolmen, including men asigned to lookouts, railroad patrol, and similar duties. A distinction between the federal and state patrolmen is maintained in order to simplify both the fiscal operation of the agreement and the inspection of the use of funds. During wet periods, when patrol is unnecessary, the men are employed on other protective work, such as trail clearing, road mak-

3. Circular No. 205, Forest Service, U. S. Dept. of Ag., 1912.
4. Proceedings of the Second Conference of Weeks Law Collaborators, 1920, p. 3.
5. Correspondence, Forest Service, Dept. of Ag.

ing, and telephone construction. The state's expenditures to offset those of the federal government may properly be made, however, for any purpose connected with the protection of forested watersheds of navigable steams from fire, including the construction of lookout stations or other protective improvements and proportionate amounts of supervisory expenses.

The state forester, or the officer of similar rank and duties, is given a federal Forest Service appointment at a nominal salary, and is empowered to employ federal patrolmen, certifying their services on government vouchers. These are submitted for payment each month, and must be accompanied by duplicates of state vouchers to show the expenditures made by the state to offset those of the federal government. An individual pay check is then sent directly to each federal patrolman. The state officer is given as much authority and latitude as possible in the expenditure of federal funds, and is held fully accountable for results. He selects the federal patrolmen, instructs them in their duties, and supervises their work. These patrolmen are given such police powers for the prevention and control of forest fires as the laws of the state provide, they are authorized to employ assistance in fighting fires, and they are equipped by the state with fire-fighting tools.[6]

The Forest Service inspects the co-operative work on the protected areas, and is vested with authority to withdraw its approval of the expenditure of federal funds on any area or to terminate the federal appointment of the state officer or of any patrolman. The inspection is not confined wholly to the federal personnel, because it is realized that the effectiveness of the work is dependent not only on the men paid from allotments under the Weeks Act, but on the

6. Circular No. 205, Forest Service, 1912; Proceedings of the Second Conference of Weeks Law Collaborators, 1920, p. 5.

entire organization.[7] This system has resulted in keeping the patrolmen and lookout watchmen clear of local politics, and has made possible the retention of efficient men despite changes in state administrations.[8]

The purpose of the federal inspection is fourfold:

1. To see that the federal subsidy is expended in accordance with the terms of the statute and the general policy of the Forest Service.

2. To acquire a first-hand knowledge of local conditions, and thus prevent unnecessary friction in the administration of the law.

3. To aid in co-ordinating the work of adjoining states.

4. To carry to each state the ideas of others.[9]

The Forest Service places a broad interpretation on what constitutes a "navigable stream" under the terms of the Weeks Act, drawing the line only at those streams used solely for floating logs, canoes or rowboats. It determines the allotment to each state, attempting to distribute the subsidy over all the areas needing federal aid. In making the apportionments, consideration is given especially to the possibility of active assistance from private owners, the amount of the appropriation by each state, the importance with respect to streamflow and navigation of the watersheds to be protected, the relative areas of the watersheds, the kind and value of the forests, and the relative fire risk.

The states receiving the federal grant are expected to create and maintain efficient fire protection organizations of their own, and to secure the co-operation of private owners in various activities, such as the hiring of patrolmen, the purchase of fire-fighting equipment, and the construction of lookout stations and telephone lines. Protective associations of timberland owners are encouraged, for it is felt that

7. Report of the Forester, 1920.
8. Proceedings, etc., p. 5.
9. Ibid., p. 10.

the private owners should make every reasonable effort to guard their own property before receiving federal aid. The aim of the Forest Service is to assist each state as far as possible, helping especially the ones which have difficulty in providing efficient protection. A state making only a small appropriation may receive an amount equal to the sum it devotes to fire protection, while a state providing adequately for its own needs by means of a large appropriation may receive a relatively small share of the federal subsidy. In the fiscal year 1921, for example, Maine appropriated nearly four times as much as New Hampshire for forest fire protection, yet received a somewhat smaller grant from the federal government. The Texas appropriation was nearly duplicated, while the allotment to New York fell short by more than one hundred and seventy-five thousand dollars of equalling the appropriation made by the legislature of that state.[10]

Apportionments are fairly uniform, however, over wide areas. In the North and West the federal expenditure for 1920 amounted approximately to one-tenth of a cent per acre of the forested area of each state protected. The Southern grants averaged but little more than one-twentieth of a cent per acre, because of the relatively small state appropriations. Other things being equal, the more important watershed or the larger area or the more valuable forest receives the larger allotment, full weight being given in each case to the relative fire hazard. Such a system of apportionment results in the payment of widely differing sums to the states, based on their widely differing needs. South Dakota received one hundred dollars from the federal government in 1921 for the prevention of forest fires, and Minnesota, with its magnificent forests of white pine, received more than ten thousand dollars.[11]

The importance of the work carried on by the Forest

10. Report of the Forester, 1921.
11. Ibid.

Service in co-operation with the states is best appreciated when it is realized that nearly eighty per cent. of the forest lands of the country, aggregating three hundred and sixty-nine million acres, is in the hands of private individuals, and that considerably more than half of this area is totally unprotected from fire, the protection on much of the remainder being incomplete and inadequate. It is primarily because the young forest growth has been burned up at an appalling rate that the country is now demanding every year more than four times the quantity of timber grown. The original forests of the United States are estimated to have covered eight hundred million acres, but two-thirds of this area has been culled, cut over, or burned.[12]

Fire has been the chief offender in this devastation of the wooded regions of the country. During the five year period ending June 30, 1920, the total number of fires exceeded one hundred and sixty thousand, laying waste fifty-six thousand acres of forest land—an area larger than New York—and destroying property worth more than eighty-five million dollars. The federal allotment has been found totally inadequate to meet the situation, and even the large increase for the fiscal year 1922 has but partially solved the problem. Lack of protection applies particularly to the enormous areas of logged-off land where rapid second growth should now be taking place. The destruction every year of the young growth, aside from large quantities of merchantable timber, is the very root of timber depletion and future shortages of essential forest products.[13]

Fire destroys not only the forest growths, but also the soil covering. The result is rapid run-off on steep slopes, followed by erosion; and the soil thus washed out is the chief source of sediment in the channels of streams and rivers. This is the reason that the federal government, desiring to stimulate state activity in regard to forest fire

12. "Timber Depletion and the Answer," U. S. Dept. of Ag. Circular No. 112, 1920.

13. Report of the Forester, 1920.

protection, but unwilling to make large federal appropriations for the benefit of state and private lands, limited its co-operation to the protection from fire of the forested watersheds of navigable streams. The safeguarding of such areas is a matter of especial importance.

It is a significant fact that more than half of the forest fires in the United States are caused by man and are, therefore, preventable. Lightning has caused more trouble than any other single factor; but campers, lumberjacks, incendiaries and the railroads taken together have started far more fires than those begun by lightning.[14] There is no doubt, therefore, that forest fires can be greatly reduced in number; and, even more important, they can be detected and checked in their incipiency by efficient organizations. The difficulty has always been to awaken the states from their lethargy and indifference, and this the federal government has endeavored to do by means of the Weeks Act subsidy.

The states, with but few exceptions, have realized the importance of the work, and have co-operated heartily with the general government in the task of conserving their forest resources. Several took their first steps in this direction as a result of the federal offer. Of the twenty-five states receiving allotments in 1920, nine had been without forest fire protection of any sort until the passage of the Weeks Law.[15] In 1920 the Kentucky legislature definitely withdrew its support from the entire movement, abolishing the office of state forester and refusing to make further appropriations to meet the national grant. The reason alleged for this action was that fires were thought to be deliberately started in order to create employment in the fire prevention service.[16] This explanation seems rather absurd in view of the fact that but five per cent. of the

14. Circular No. 205, F. S., 1912; Dept. of Ag. Circular No. 112, 1920.
15. Proceedings, etc., p. 3.
16. Correspondence, Ky. Dept. of Ag.

nation's forest fires are of incendiary origin.[17] Nature creates plenty of work for fire fighters without the intentional assistance of man.

During 1921 three additional states enacted legislation making them eligible to receive federal allotments the following year. This increased the number of states co-operating with the national government under the Weeks Act to twenty-seven. Twelve states containing important forest resources are still without the pale, but the movement is constantly growing in importance. Since the passage of the federal statute the protection of private forest lands has been built up from almost nothing to a point where about one-third of their total area can be said to be adequately protected. In large measure as the result of federal leadership and encouragement, the state and private expenditures in 1921 for forest protection were seven times the national subsidy.[18] The extension of organized protection against forest fires, with the general government taking the lead as a standardizing and guiding agency, is one of the essential steps in the nation's forestry policy. Experience has demonstrated that the technical leadership and financial co-operation of the federal government are factors of the highest importance in initiating local protective organizations and in stimulating the expenditure of state and private funds.

17. Report of the Forester, 1920.
18. Report of the Forester, 1921.

CHAPTER V

HIGHWAYS

The first grant of money made by Congress to any state was in 1802, when Ohio was given five per cent. of the net proceeds from the sale of public lands within its borders, for the purpose of "laying out and making public roads." [1] From time to time other subsidies were made, both land and money being donated for the benefit of the highways of the several states. The enabling act of Illinois in 1818 granted five per cent. of the net sales of public lands within its boundaries, two-fifths to be spent under the direction of Congress in making roads leading to the state. Following the general policy thus established, the federal government required in almost every instance prior to 1889 that the "five per cent. fund" [2] be devoted to highways or other internal improvements.[3] In recent years certain percentages of the receipts from the national forests and forest reserves, and from the non-metalic mineral lands of the public domain, have been granted to the several states, to be used under the direction of their legislatures for roads and schools.[4]

About the year 1895 the federal government began to make extensive experiments in road construction and maintenance, testing various types of road materials and imparting the information thus acquired to local road builders. This work was carried on by the Office of Public Roads of the Department of Agriculture.[5] With the advent of the automobile and the motor truck the need for a national system of highways, supervised by federal officials and supported by federal funds, became apparent. Bills providing federal aid for roads were accordingly introduced in Con-

1. Keith & Bagley, op. cit., p. 53.
2. Cf. supra, p. 11.
3. Orfield, M. N., op. cit., p. 80.
4. Cf. supra, p. 12.
5. Wanlass, Wm. L., op. cit., p. 62.

gress as early as 1907, though it was not until 1912 that the matter attracted widespread attention, sixty-two bills dealing with the subject being introduced in that year.[6]

Those sponsoring the various measures were divided into two camps. The nationalists desired a vast system of highways running from state to state and uniting all parts of the country, constructed and maintained by the federal government. Here were naturally found the representatives of the automobilists and the advocates of a system of military roads. The localists, representing mainly the farming population, centered their attention upon the construction of relatively short branch lines leading out from thousands of local centres. They desired to have the federal grant made unconditionally, leaving the states free to construct and maintain public roads in accordance with their own judgment.

Some twenty of the sixty-two members of Congress who in 1912 had introduced bills granting federal aid for the construction of highways were finally induced to support one sponsored by D. W. Shackleford, a representative from Missouri. This measure, which represented the viewpoint of the localists, divided the rural post roads of the country into three classes according to the type of construction, and provided that the federal government should pay the states for the privilege of using these roads to deliver rural mail. Twenty-five dollars a year was to be paid for each mile of Class A road so used, twenty dollars for each mile of Class B and fifteen dollars for each mile of Class C. The roads in the third class, mostly of dirt, comprised five-sixths of the total mileage.

The defects of this bill are discussed at length in an admirable article by Dr. Paul H. Douglas.[7] As he points out, its purpose was road rental rather than road improvement. The federal subsidy did not have to be used for highway

6. Douglas, Paul H., op. cit., p. 263.
7. Political Science Quarterly, v. 35, p. 264 et seq.

construction or maintenance; indeed, it was so inadequate that it would not have sufficed to keep in repair roads already built, without attempting new construction. The cost of maintaining some of the Class A roads was as high as one thousand dollars a mile annually, while the cost for those of Class B ran into the hundreds of dollars. The rentals granted would barely have sufficed to fill in a few of the mud holes in the dirt roads and to run a drag over their surface. Moreover, no federal supervision worth mentioning was provided for.

Despite determined opposition, the Shackleford plan was included in the Post Office Appropriation Bill by a vote of two hundred and forty to forty-nine, but it was stricken out by the Senate, whose representatives stood firm in the conference committee, permitting the measure to die a natural death. Upon the recommendation of the conference committee a joint committee was then appointed by Congress to investigate the whole problem of federal aid for post roads, and an experimental appropriation of five hundred thousand dollars was made, to be expended by the Secretary of Agriculture in co-operation with the Postmaster General "in improving the condition of post roads." To this appropriation was added the significant proviso that "the state or local subdivision thereof in which such improvement is made under this provision shall furnish double the amount of money for the improvement of the road or roads so selected." [8]

In 1914 Mr. Shackleford introduced another subsidy bill granting twenty-five million dollars to the states. Each state was to receive a minimum of sixty-five thousand dollars, and the remainder was to be distributed, one-half in the proportion which the population of each state formed of the total population of the continental United States, and one-half in the proportion which the mileage of rural post roads in each state formed of the rural post roads of the

8. 37 Stat. L., 551.

country as a whole. The federal subsidy could be expended for the construction and maintenance of public roads, with the approval of the Secretary of Agriculture, provided that the state or its subdivisions bore at least half the cost; or it could be used for road rentals, or for both purposes, at the discretion of the state. The three original classes of roads were retained, but the rental for the two highest classes was increased, Class A now to receive sixty dollars annually per mile, and Class B, thirty dollars. The rental for Class C was left at fifteen.

This bill was decidedly better than its predecessor, but it was still very defective. It made no provision for a national system of highways, and kept national supervision of local highway programs at a minimum. Nevertheless, it passed the House by the imposing majority of two hundred and eighty-four to forty-two, only to be rejected by the Senate, with the result that no federal aid was granted. Two years later Congressman Shackleford made still a third attempt, his new bill providing for an appropriation of twenty-five million dollars, to be distributed among the states in accordance with the method outlined in the 1914 proposal. The aid extended by the federal government was to range from thirty to fifty per cent. of the total cost, at the discretion of the Secretary of Agriculture, and was to be used for the construction and maintenance of rural post roads, the road-rental feature of former bills thus disappearing. The measure was essentially local in character, however, as evinced by the specific statement that one of its purposes was "to encourage and promote a genuine system of roads leading from cities, towns and railway stations into the adjacent farming communities." Again the House voted in the affirmative, and again the Senate refused to concur. In the meantime Senator Bankhead of Alabama had introduced a bill framed by the National Association of Highway Engineers,and this was substituted for the House measure. In the conference committee the House receded from its

stand, and on July 11, 1916, the Bankhead plan became law.[9]

The Federal Highway Act of 1916 was a distinct triumph for those favoring national supervision and control of the public roads of the United States. It provided for a five year appropriation, increasing annually by five million dollars until 1921, when a maximum of twenty-five millions was to be reached, the grant to be expended by the Secretary of Agriculture, in co-operation with the highway departments of the several states, in the construction of rural post roads.[10] Reconstruction and improvement of the highways, including the erection of necessary bridges and culverts, were to be a part of the work done by the federal government; but maintenance, including the making of needed repairs and the preservation of reasonably smooth surfaces, was made an obligation which the states must fulfill in order to receive federal allotments. The statute provided that "if at any time the Secretary of Agriculture shall find that any road in any State constructed under the provisions of this act is not being properly maintained he shall give notice of such fact to the highway department of such state and if within four months from the receipt of said notice said road has not been put in a proper condition of maintenance then the Secretary of Agriculture shall thereafter refuse to approve any project for road construction in said state, or the civil subdivision thereof, as the fact may be, whose duty it is to maintain said road, until it has been put in a condition of proper maintenance." [11] This clause put into the hands of the federal government a most effective weapon for enforcing federal maintenance requirements.

A rural post road was defined as "any public road over which the United States mails now are or may hereafter be transported," except in cities and towns having populations of twenty-five hundred or more. A double limitation was placed upon federal expenditures, the contribution of the

9. Douglas, Paul H., op. cit.,pp. 262-66.
10. 39 Stat. L., 355.
11. Ibid.

national government being restricted to fifty per cent. of the total cost of each project, and also to ten thousand dollars for each mile, except in the case of bridges having certain dimensions. In states constitutionally prohibited from engaging in works of internal improvement the counties were given permission to unite in matching federal funds. One of the provisos of the act was that all roads constructed under its terms should be free from tolls. A somewhat complicated method of apportionment was devised, the subsidy to be distributed "one-third in the ratio which the area of each state bears to the area of all the states; one-third in the ratio which the population of each state bears to the total population of all the states, as shown by the latest available federal census; one-third in the ratio which the mileage of rural delivery routes and star routes in each state bears to the total mileage of rural delivery routes and star routes in all the states."

As usual, the assent of the state legislature to the terms of the federal statute was required, temporary gubernatorial acceptance being permitted. The Federal Highway Act of 1916 went farther than any previous subsidy law in prescribing the exact manner of expending federal allotments. Each state desiring to avail itself of the benefits of the statute was directed to submit to the Secretary of Agriculture, through its highway department, project statements setting forth the proposed construction of rural post roads within its borders, including all surveys, plans, specifications and estimates required by the Secretary. Projects meeting all federal requirements were to be approved by the Secretary of Agriculture, and federal allotments paid as construction proceeded, all work being done under the direct supervision of the state highway department, subject to the inspection and approval of the general government.[12]

The administration of the Federal Highway Act was entrusted by the Secretary of Agriculture to the Bureau of

12. 39 Stat. L., 355.

Public Roads, which was entirely reorganized to enable it to perform its new duties. Its two branches were now known as the Engineering Division and the Management and Economics Division, headed respectively by a chief engineer and a chief of management, both under the immediate supervision of the director of the Bureau. Two general inspectors were also appointed, operating independently of the two branches and reporting immediately to the director. For administrative purposes the country was divided into ten districts, the number later being increased to thirteen; and a district engineer was assigned to each, authorized to supervise the work and deal directly with the state departments of his district. In addition, one or more resident engineers were placed in each state where the work was sufficiently heavy to warrant this step.[13]

Immediately after the passage of the Federal Highway Act of 1916 the Secretary of Agriculture called a conference of the heads of the several state highway departments, and with their aid formulated a series of rules and regulations for carrying into effect the provisions of the statute. Under the procedure finally agreed upon the state highway department submits to the district engineer an application, known as a project statement, for each road it proposes to construct or improve. This statement, filled out on standard forms prescribed by the Bureau of Public Roads, shows in detail whether the project conforms to the requirements of the federal law, whether adequate state funds are available for construction, and whether the project correlates properly with the other highway work of the state. It also makes clear the administrative control of the project and the responsibility for it, the adequacy of the plans, the provision for maintenance, and the approximate amount of federal aid desired. The method and type of construction and the materials to be used are set forth in such detail as to

13. Report of the Chief of the Bureau of Public Roads, 1920; Separate No. 849, from Yearbook of the U. S. Dept. of Ag., 1920.

simplify the task of federal supervision.[14]

The plans submitted by the state highway department are carefully examined by the district engineer, and upon his recommendation the state is permitted to proceed with construction. More than half of the project statements handled are passed by the district offices in an average of five days,[15] and they are then sent for final inspection and approval to the central office at Washington, where a separate division of the engineering force has been organized for this purpose. When an application is found to be satisfactory, the state highway department and the Treasury Department of the United States are so notified, and a formal project agreement is signed between the federal government and the state. As the work progresses, or upon its completion, payments are made from federal funds.[16]

The number of project statements submitted is very large, rising some months as high as four hundred; and each one requires careful checking and scrutiny. Every effort has been made to facilitate the work, and large powers have been vested in the district engineers. These federal representatives are permitted to decide upon proposed changes in the plans of projects under construction without authority from the headquarters office even when such changes involve an increase in the amount of federal funds required. By an understanding with the states claims are not submitted for less than one thousand dollars, this arrangement reducing the number of vouchers about thirty per cent. In order to take care of the large number of incorrect claims, numerical errors, and the like, five per cent. of the amount earned by each state is uniformly withheld at Washington for a short period after the balance has been paid.[17]

Every precaution has been taken by the Bureau of Public Roads to guard against a misuse of the federal subsidy.

14. Rules & Regulations of the Sec. of Ag. for Carrying Out the Federal Aid Road Act, 1919.
15. Report of the Chief of the Bureau of Public Roads, 1921.
16. Ibid., 1917.
17. Report of the Chief of the Bureau of Public Roads, 1920.

Materials for the construction of each project are tested prior to use, except when standard materials are designated. If a contract is awarded to any other than the lowest responsible bidder, the general government pays to the state only its pro rata share of the lowest responsible bid, unless satisfied that the acceptance of the higher offer was justified.[18] An investigation is made in connection with each project submitted to make certain that the proposed road is of sufficient general importance to warrant federal co-operation. This does not mean that all roads must be national in character. On the contrary, many of them are the type favored by the farmers, radiating from market and shipping points into the surrounding country. This local species of road has been the main beneficiary of federal grants in the thickly settled states of the East, where highways of national importance were constructed years ago; while in the sparsely populated West national roads have received by far the larger share of the subsidy.[19]

The Bureau of Public Roads is co-operating with the War Department in a study of the highways of the country for the purpose of selecting those which are important from a military standpoint, though realizing that the highways required for commerce and national development are in general identical with those essential for military purposes. This work was undertaken by the War Department at the suggestion of the Bureau, the detailed investigations being conducted by the department commanders, whose recommendations will be co-ordinated under the direction of the General Staff and furnished to the Bureau of Public Roads as a complete report covering the highways of the United States important from a military standpoint. This report will be given careful consideration, and will be taken up in conferences with the state highway departments with a view to expediting the improvement of the highways se-

18. Rules & Regulations of the Sec. of Ag. for Carrying Out the Federal Aid Road Act, 1919.

19. Report of the Chief of the Bureau of Public Roads, 1920.

lected. In this manner the federal subsidy is being utilized to shape state activities to national ends.

The Federal Highway Act of 1916 imposed the condition that roads constructed under its terms should be of a "substantial" nature, leaving to the Secretary of Agriculture the interpretation of the adjective "substantial." In the administration of the statute no fixed and definite standards have been set up, because no standards could be found adequate to meet the diverse conditions presented throughout the country. Every project has to be considered separately on its own merits. A number of factors affect the decisions of the district engineer and of the central authorities at Washington. The amount and nature of the present and probable future traffic on the highway are taken into account, as well as the type of adjacent roads and the relation to the state highway system. Peculiar local conditions are also considered, such as the prevailing local practice in road construction and the kind of local materials readily available. There are other factors of a technical nature which are also borne in mind. The result has been the meeting of local needs, regardless of uniformity. The roads built in part with federal funds are substantial in character, but "substantial" does not mean the same thing in the desert of Nevada as in the densely populated regions of Pennsylvania.[20]

The Bureau of Public Roads endeavors in every way possible to reduce the necessity for the exercise of its veto power over the projects submitted. Representatives of the Bureau and of the state highway departments meet at regular intervals to discuss the problems connected with federal aid and to thrash out matters of disagreement. In addition, engineers representing the federal government have been assigned to most of the states, with instructions to follow the state plans and endeavor to eliminate questionable features before the projects are submitted to the

20. Report of the Chief of the Bureau of Public Roads, 1920.

Bureau for approval. The result has been to keep the number of rejections at a minimum without lowering federal standards. Not infrequently, however, it is found necessary to refuse assent to state proposals. Indiana, for example, requested federal aid in the construction of a bridge on a worn-out stretch of road in Franklin County which was not to be improved. The Bureau of Public Roads was obliged to disapprove the erection of the bridge, because of lack of suitable connection. A Kentucky proposal to improve a piece of road along Bennett's Creek met a similar fate when the federal government found that the road would be of use to very few people, and that it was paralleled by a railroad which better served the needs of the mining towns along the stream. Somewhat different was the case of an application made by Arkansas involving the construction of a section of highway in Franklin County. As originally submitted, the project had a number of grades which the district engineer considered excessive, and which he endeavored to have the state revise. Instead of agreeing to the change, the Arkansas highway department attempted to nullify the federal veto by withdrawing from its application the section of road containing the objectionable grades, and substituting therefor other sections of the same highway. But the district engineer refused to acquiesce in this obvious evasion of federal requirements, and at length the state revised the grades, receiving federal approval of the project.[21] Rejections are not numerous, but they are effective.

In addition to the subsidy for rural post roads, the Federal Highway Act of 1916 made an annual appropriation of one million dollars for a period of ten years, to be used "for the survey, construction and maintenance of roads and trails within or only partly within the national forests, when necessary for the use and development of resources upon which communities within and adjacent to the national

21. Correspondence, Bureau of Public Roads.

forests are dependent."[22] This appropriation was necessary to round out the national program of highway development, for the road systems of the national forests are closely allied with those of the states, forming an integral part of the general road plan of the West. Forest areas along the mountain summits contain the passes through which the important trunk highways must cross the mountain ranges, and as a consequence many forest road projects are parts of important state and national highways. Within the forests are approximately fifteen thousand miles of roads which form connecting links for state and county highway systems, and over these roads the traffic from the communities adjacent to the forests must pass.[23]

Road construction in the national forests under the terms of the Federal Highway Act is carried on through co-operative agreements between the states or counties and the Department of Agriculture, the Forest Service being entrusted with the actual work of administration, which includes the approval or rejection of projects submitted by the states and inspection of the work performed. The building of the roads is done by the states subject to federal approval, and the federal government bears a major portion of the cost of most of the projects. Like the rural post roads, the national forest roads must be maintained by the local authorities, under penalty of a withdrawal of federal aid. Ten per cent. of each annual Congressional appropriation is withheld by the Forest Service for the administration of the act and for the purchase of survey and construction equipment, the remainder being apportioned to the states on the basis of the area and value of the national forest lands within their boundaries.[24]

The Post Office Appropriation Act of 1919 contained some important amendments to the original Federal Highway Act.

22. 39 Stat. L., 355.
23. Report of the Chief of the Bureau of Public Roads, 1920.
24. Rules & Regulations of the Sec. of Ag. for Carrying Out the Federal Aid Road Act, 1919; Report of the Forester, 1920.

An additional two hundred million dollars was appropriated for the construction of rural post roads in co-operation with the states, fifty million being made available for the fiscal year 1919, and seventy-five million for each of the two succeeding years. An appropriation of nine million dollars, becoming available in three annual installments, was also made for building roads and trails within the national forests. The term "rural post roads" was altered slightly so as to make it even more comprehensive, and the maximum federal contribution per mile was increased from ten thousand dollars to twenty thousand. Perhaps the most significant change, however, was with reference to states constitutionally prohibited from engaging in works of internal improvement. The act of 1916 had in such cases permitted the counties to unite in matching the federal funds;[25] the 1919 statute required the states so handicapped to amend their constitutions by striking out the objectionable provisions, under penalty of forfeiting further federal allotments.[26] This was a notable step in the direction of national co-ordination and control of state activities. Other subsidy laws had contained inducements to the states to co-operate with the federal government for various purposes; but no other had offered a "bribe" to the states to amend their constitutions in conformity with federal plans. Yet no serious objection to the clause was made in either house of Congress.[27] The trend of the times toward nationalism was manifested beyond shadow of doubt.

The act of 1919 not only increased materially the federal appropriation for road building in co-operation with the states, but also authorized the Secretary of War "to transfer to the Secretary of Agriculture all available war material, equipment and supplies not needed for the purposes of the War Department, but suitable for use in the improvement of highways," to be distributed among the highway

25. Cf. supra, p. 57.
26. 40 Stat. L., 1200.
27. Cong. Record, Feb., 1919, passim.

departments of the several states for use "on roads constructed in whole or in part by federal aid, such distribution to be made upon a value basis" similar to that prescribed by the Federal Highway Act of 1916.[28] Under the provisions of this section a representative of the Department of Agriculture was sent to France in the summer of 1919 to assist in the selection of machinery and equipment suitable for road building.[29] Distributions of material were made to the states before the end of the year, proving of great value to them at a time when highway construction was almost at its nadir. Supplemental acts directed more specifically the transfer of motor vehicles and other equipment to the states, and before the close of 1921 the value of the total allotments under these statutes had amounted to one hundred and fifty millions of dollars.[30]

Trucks and tractors were the most important items, but the material distributed was as various as the needs of road construction under the wide range of natural conditions existing in the United States. Nearly twenty million pounds of TNT intended for use in warfare were allotted to the state highway departments, as well as huge bombproof tents. These "elephant shelters" are being employed in the mountains of Colorado as snow protectors and in the deserts of Arizona as large culverts to shield the roads from the effects of the heavy storms which infrequently visit the region.

The charge was made by Representative MacGregor of New York, and given wide credence, that many of the states asked for and received far more equipment and supplies than they could use in road construction, disposing of the surplus to private individuals at far less than its real value. Senator Wadsworth of New York stated on the floor of the United States Senate that the states had bartered away millions of dollars' worth of property given them by the

28. 40 Stat. L. 1200.
29. Report of the Chief of the Bureau of Public Roads, 1920.
30. Ibid., 1921.

federal government for road building purposes, citing as an example of this waste the sale by New Jersey of eight Pierce-Arrow trucks for three hundred and ninety dollars apiece.[31] It seems, however, that the charge of extravagant misuse of the federal allotments by the states has little foundation in fact. The entire matter was thoroughly investigated by Mr. MacGregor, and at the end of a year he was able to adduce practically no proof in support of his accusation.[32] It developed that the trucks referred to by Senator Wadsworth were almost worthless, and that a factory representative of the Pierce-Arrow Motor Car Company estimated the cost of placing them in serviceable condition at about two thousand dollars apiece. It would have been necessary to add to this figure eight hundred and fifty dollars apiece for new tires and suitable dumping bodies; and as the retail price of the trucks when new was but thirty-seven hundred dollars, the state was clearly justified in disposing of the worn out trucks for whatever they would bring. The Bureau of Public Roads, knowing their poor condition before shipment, readily consented to the sale.[33] According to a statement made by the Bureau of Public Roads, and corroborated by letters to Mr. MacGregor from the highway departments of forty-six states, no material was distributed which was not apparently needed in road building; and the equipment and supplies disposed of by the states, amounting in value to less than one-half of one per cent. of the total, were sold because they were found to be unserviceable.[34]

In December, 1919, the American Association of State Highway Officials, composed of the administrative and

31. Correspondence, Senator Wadsworth; Cong. Record, v. 61, pp. 2293-97.

32. Correspondence between Representative MacGregor and federal bureaus and state highway departments.

33. Correspondence between Representative MacGregor and T. J. Wasser, N. J. State Highway Engineer; Representative Ackerman and Mr. Wasser; N. J. State Highway Dept. and Ellis Motor Car Company; Mr. Wasser and Thomas H. MacDonald, Chief of U. S. Bureau of Public Roads.

34. Correspondence, Bureau of Public Roads; Report of the Chief of the Bureau of Public Roads, 1921; Correspondence between Representative MacGregor and state highway departments.

executive officers of the highway departments of the several states, adopted a series of resolutions calling for a number of modifications in the federal highway program. Among the suggestions were included the increase of the appropriation for the building of post roads to one hundred million dollars a year, and that for the construction of forest roads to ten millions annually; the development of an adequate national highway system; and an increase in the ratio of expense borne by the federal government in some of the public land states.[35] Nearly two years later these proposals found definite legislative expression in the Federal Highway Act of 1921. This statute granted an additional subsidy of seventy-five million dollars for highway construction, making the total appropriation available for distribution to the state highway departments during the fiscal year 1922 somewhat in excess of one hundred and forty million dollars. Federal aid was not limited to roads used for transportation of the mails, the term "rural post roads" disappearing altogether. Fifteen million dollars was also appropriated for building roads within the national forests, but the co-operation of the states was not required for this work. The method of apportionment was left unchanged, except for the stipulation that no state should receive less than one-half of one per cent. of the total allotment for any fiscal year. Four of the smaller states benefitted by this clause.[36]

The double limitation placed upon federal expenditures by former acts—that they should not exceed twenty thousand dollars per mile, nor half of the total cost of any project—was continued, except with respect to those states containing unappropriated public lands in excess of five per cent. of their total area. For such states the special provision was made that the federal government might participate to the extent of fifty per cent. plus a percentage of the total cost of each project equal to one-half of the percentage

35. Report of the Chief of the Bureau of Public Roads, 1920.
36. 42 Stat. L., 212; "Public Roads," Dept. of Ag. Magazine, Dec., 1921.

borne by the area of the public lands of the state to its total area, the twenty thousand dollars per mile maximum being increased in proportion to the additional percentage of federal aid authorized.[37] The adoption of this "sliding scale" of federal co-operation benefitted ten states. The maximum proportion of the total cost of highway construction which the federal government might bear was raised to eighty-seven per cent. in Nevada; in the other nine states it was less.[38] The Chief of the Bureau of Public Roads expressed complete satisfaction with this modification of the method of apportionment, declaring that he did not regard it as a concession to the West, but rather as a recognition of the fact that in the public lands, whose future utility is problematic, the United States as whole should be responsible for the development of an adequate system of highways.[39]

The Federal Highway Act of 1921 provided that the federal subsidy should be expended in each state upon a definite connected system of roads limited to seven per cent. of its total road mileage. This system was to be divided into two parts—the primary or interstate highways, which were to comprise not more than three-sevenths of the total and were to receive not more than sixty per cent. of the federal allotments; and the secondary or intercounty highways, making up the balance of the system. Upon completion of satisfactory arrangements by a state for the construction and maintenance of the selected seven per cent., federal aid might be extended to other roads within its borders. The systems upon which the federal grants were to be expended were to be selected by the state highway departments, but the Secretary of Agriculture was given authority to require modifications or revisions.

In lieu of the somewhat vague requirement of former

37. 42 Stat. L., 212.
38. "Public Roads," Dec., 1921.
39. MacDonald, Thos. H., "Resume of Co-operative Road Improvement and Future Policies," Dept. of Ag. Bulletin.

statutes that "substantial" roads should be built with federal funds, the 1921 act stipulated that "only such durable types of surface and kinds of materials shall be adopted for the construction and reconstruction of any highway . . . as will adequately meet the existing and probable future traffic needs and conditions thereon." A heavy penalty was provided by the new law for failure to maintain the roads constructed under its provisions. Notice was to be served upon any state allowing a road to suffer for lack of care, and if within ninety days the proper attention was not given, the Secretary of Agriculture was authorized to proceed to maintain the road himself and to charge the cost against the federal funds allotted to the state. In addition, no other project of the state was to be approved until it repaid the money spent by the general government on upkeep. The amount paid back was not to be returned to the state's allotment, but was to be reapportioned among all the states, the delinquent thus losing all but a small portion.[40]

The Federal Highway Act of 1916 transformed road construction throughout the United States. Every state in the Union accepted its provisions, and in the year following its passage more constructive highway legislation was placed upon the state statute books than had ever before been enacted in a similar period in the history of the country.[41] Prior to 1916 the federal government took no active part in road building; today about one-half of all highways in course of construction are receiving federal aid, and are subject to the inspection and approval of federal engineers.[42] Under the provisions of the various highway acts, co-operative agreements involving more than two hundred millions of dollars had been entered into by November 30, 1921, calling for the construction of twenty-eight thousand, six hundred and one miles of highways, of which the

40. 42 Stat. L., 212.
41. Separate No. 849, from the Yearbook of the Dept. of Ag., 1920.
42. "Public Roads," Dec., 1921.

equivalent of twenty-three thousand miles had been completed.[43] Not only has road building been encouraged, but attention has been focused upon a co-ordinated national system of highways. One hundred and forty million dollars, more than three-fourths of the total appropriation by Congress for distribution to the states during the fiscal year 1922, were for highway construction. The vast subsidies for this purpose are being used most effectively to bring the state highway programs under national control.

43. Correspondence, Bureau of Public Roads.

CHAPTER VI

THE NATIONAL GUARD

Until the beginning of the twentieth century the several states were given practically a free hand in the organization and control of their militia. The federal government gave financial assistance, but asked in return no measure of supervision over state activities. As early as 1798 a law was passed providing that the United States should purchase arms and ammunition and sell them to the states.[1] That plan did not prove satisfactory, and ten years later Congress substituted a direct annual appropriation of two hundred thousand dollars, to be used for the purpose of providing arms and equipment for the militia. The arms and equipment thus purchased were to be allotted to the States and territories according to the number of their effective militia, and utilized under state rules and regulations.[2]

In 1842 an appropriation was made to pay Louisiana for raising a regiment of volunteers used by the United States in the Seminole War,[3] and at the outbreak of the Civil War an act was passed authorizing the repayment to the states of expenses incurred by them in outfitting their troops for service at the front.[4] A similar policy was followed during the Spanish-American War.[5] These payments were in the nature of reimbursements, however, rather than subsidies. The federal government imposed a definite requirement upon the military organizations of the states for the first time in 1886, when the annual appropriation for arming and equipping the militia was increased to four hundred thousand dollars, the share of each state to be determined

1. 1 Stat. L., 576.
2. 2 Stat. L., 40.
3. 5 Stat. L., 542.
4. 12 Stat. L., 276.
5. 30 Stat. L., 730.

on the basis of its representation in Congress. The significant proviso was added that "no State shall be entitled to the benefits of the appropriation apportioned to it unless the number of its regularly enlisted, organized and uniformed active militia shall be at least one hundred men for each Senator and Representative to which such State is entitled in the Congress of the United States."[6] But no administrative machinery was provided for enforcing this requirement, and the states were virtually free to obey or disregard it as they saw fit.

The foundation of an efficient system of national supervision over the military establishments of the several states was laid in 1903. The act passed in that year stipulated that the states receiving the federal subsidy must require every company, troop and battery in their organized militia to participate in practice marches or go into camp of instruction at least five consecutive days annually, or to assemble for drill or target practice at least twenty-four times. The organization, armament and discipline of the militia were to be the same as that of the regular army, the states being given five years to meet the prescribed standards. The act of 1903 was the first to provide for federal inspection of the state units. It directed the Secretary of War to detail officers of the regular army for that purpose. In order to facilitate the work of standardizing the arms and uniforms of the militia, the Secretary of War was authorized to issue standard equipment to the states, receiving the old arms and uniforms in their stead. The new equipment was to remain the property of the United States, and for that reason was not to be charged against the annual appropriation for the militia. The states were given permission to purchase from the army and navy departments such supplies as they might need, setting off against their annual allotments the debts thus incurred. Provision was also made for participation by state units in

6. 24 Stat. L., 401.

the encampment, maneuvers and field instruction of the regular army, the members of the state militia so participating to receive the same pay, subsistence and transportation as the officers and men in the federal service.[7] This act marked the beginning of federal regulation of the state military organizations, but the control provided for was still far from adequate.

The administration of the act of 1903 was at first carried out through a division of the Adjutant-General's office. But successive annual appropriation bills granted federal funds in ever increasing amounts,[8] and soon all the supply departments, as well as the offices of the Assistant Secretary of War and the Chief of Staff, were involved in the work. This condition of affairs was remedied in 1908 by an executive order creating the Division of Militia Affairs, which was given charge of all matters pertaining to the military establishments of the states. The effect of the organization of this separate division soon manifested itself in prompter action on requisitions for equipment and estimates for funds, and in standardization of the customs of the service.[9]

In 1906 the annual appropriation for arming and equipping the militia was raised to two million dollars, and the proviso was added that in the event of property furnished to a state being lost, destroyed or rendered unsuitable for use, it should be examined by a surveying officer of the militia, appointed by the governor. If he reported that the loss or damage was unavoidable, the state was to be relieved from further accountability; but if he reported that it was due to carelessness or neglect, then the cost of the property was to be charged against the state's allotment.[10] This arrangement was obviously doomed to failure. It was useless to attempt to hold the states responsible for the material is-

7. 32 Stat. L., 775.
8. 33 Stat. L., 275; 34 Stat. L., 449, 1174.
9. National Service, Nov., 1920.
10. 34 Stat. L., 449.

sued to them if their own officials were to determine the question of responsibility.

An act passed in 1908 marked another step toward the nationalization of the militia. The minimum number of enlisted men in the various units was to be fixed by the federal government. An attempt was made to insure harmonious co-operation between the federal government and the states by creating a board of five members, selected from the active officers of the militia by the Secretary of War, to confer with him respecting the condition, status and needs of the military establishments of the several states.[11] Some time later the President was authorized to detail officers of the regular army for duty as inspectors and instructors of the militia, upon the request of the governors of the states.[12] This provision foreshadowed complusory supervision of the state units by representatives of the federal government.

The National Defence Act of 1916[13] provided in sweeping terms for federal supervision and control of the state militia. Several times amended,[14] it has made possible the creation of a nationally organized body of state troops auxiliary to the regular army, and similarly equipped and disciplined. The word "militia" was dropped altogether, the term "National Guard" appearing in its place. The change in phraseology is significant. In its final form the statute fixed the number of men ultimately to be enlisted at eight hundred for each senator and representative in Congress, and authorized the President to prescribe the unit or units, as to the branch of service, to be maintained in each state. The qualifications for officers of the National Guard were enumerated in detail. They were to be drawn only from certain specified classes, and were to be examined as to their physical, moral and professional fitness by a board appointed by the Secretary of War.

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11. 35 Stat. L., 399.
12. 36 Stat. L., 1045.
13. 39 Stat. L., 197.
14. 41 Stat. L., 127, 760.

Each company, troop, battery and detachment in the National Guard was required to assemble for drill and inspection at least forty-eight times annually, and to participate in encampments at least fifteen days, credit being given only for training of a prescribed character and duration participated in by a minimum number of officers and men. An oath of allegiance to the United States, as well as to the states, was to be taken. The period of original enlistment, after several changes, was finally fixed at three years. Even the kinds of courts-martial to be used in the National Guard were specified by the National Defence Act, which set forth minutely their jurisdiction and powers.[15]

In order to induce the states to accept this comprehensive federal regulation of their militia, the United States offered to assume practically all the expenses of maintaining the National Guard. The Secretary of War was authorized to issue "such number of United States service arms, with all accessories, field-artillery material, engineer, coast artillery, signal, and sanitary material, accouterments, field uniforms, clothing, equipage, publications, and military stores of all kinds, including public animals, as are necessary to arm, uniform and equip for field service the National Guard." New equipment was to be furnished as the old became obsolete or unserviceable, and the condemned property returned to the War Department. The states were required only to provide armories and to make adequate arrangements, under the supervision of the federal government, for the protection and care of the property issued to them. Equipment and supplies rendered unsuitable for use while in the possession of a state were to be examined, not by an appointee of the governor, but by a federal representative; and the final decision as to the state's accountability was to be made by the Secretary of War. The proviso was also added that if any state should neglect or refuse to pay the money equivalent of any loss, damage, or destruction of

15. 39 Stat. L., 197.

property charged against it after survey by a disinterested officer, it should be debarred from further participation in federal allotments.[16] This arrangement enabled the federal government for the first time to fix definitely the responsibility for the abuse of arms and equipment distributed to the states.[17]

The act of 1916 provided for the payment of officers and enlisted men of the National Guard. Remuneration was to be based on the number of drills attended, but the stipulation was imposed that commissioned officers should be compensated only for periods of instruction attended by at least fifty per cent. of the commissioned strength and sixty per cent. of the enlisted strength of their respective units. The federal subsidy for the support of the National Guard was to be apportioned on the basis of the number of enlisted men in active service in each state and territory. Funds and property allotted to any state were to be disbursed through a state officer appointed by the governor. This officer was required to give bond to the United States for the faithful performance of his duties, and also to render account of the funds entrusted to his care, receiving pay for his services from the federal government. An annual examination of his accounts and records by an inspector general of the regular army was provided as an additional safeguard against the misuse of federal allotments.

The units of the National Guard were to be inspected yearly by regular army officers, to determine whether they were armed, uniformed, equipped and trained in accordance with federal requirements. The Secretary of War was authorized to detail officers and enlisted men of the regular army to duty with the National Guard, permitting them to accept commissions in the National Guard without prejudice to their federal rank. The most significant clause of the entire statute was the proviso that "whenever any state shall, within a limit of time to be fixed by the President,

16. 39 Stat. L., 197.
17. Cf. supra, p. 73.

have failed or refused to comply with or enforce any requirement of this Act, or any regulation promulgated thereunder and in aid thereof by the President or the Secretary of War, the National Guard of such State shall be debarred, wholly or in part, as the President may direct, from receiving from the United States any pecuniary or other aid, benefit or privilege authorized or provided by this Act or any other law."[18] This clause put "teeth" in the act. It gave the federal government the one thing necessary to make effective its supervision of the subsidies granted to the states—the power to withhold allotments. Without that power, federal inspection could be little more than nominal. In harmony with its greatly increased duties, the Division of Militia Affairs was raised to the rank of a bureau.[19]

Among the regulations which have been issued by the War Department under the terms of the federal statute is the provision that no officer can be federally recognized until all the elements of his command have been duly organized, inspected by an army officer, and formally accepted by the United States. When a new regiment is to be organized in a state, the first step is usually the appointment by the governor of a colonel to take charge of the work, this officer having as yet no federal status. As each company is organized it is inspected by an officer of the regular army. If found to conform to the numerous federal requirements, it is given a formal letter of recognition by the Militia Bureau, authorizing the issuing to it of all necessary clothing, equipment and arms, and entitling its members to draw pay for drill and camp service. At last, when all the components of the regiment have been accepted, the colonel, lieutenant colonel and regimental staff officers also receive federal recognition.[20]

The National Defence Act of 1916 appears to have solved the problem of procuring capable and suitable officers for the

18. 39 Stat. L., 197.
19. Ibid.
20. National Service, Oct., 1921.

National Guard. In the period when state laws almost without exception provided for the election of officers of the state militia, the most popular man in each neighborhood was elected captain of his company, regardless of any consideration as to his fitness for the position. The natural result was that the newly elected officer found himself under obligation to every elector, down to the rawest recruit. This condition of affairs has undergone a transformation since the federal government has taken over the supervision and training of the state troops, paying them for the time so employed. In the large majority of states the elective system has been replaced by gubernatorial appointment of officers. The United States cannot prevent the appointment of an unfit man as a National Guard officer, but it can prevent him from receiving federal pay. Until an appointment has been confirmed by the Militia Bureau, the appointee has no federal status, and is ignored by the federal government until a record covering essential facts of his personal history, both civil and military, and a detailed certificate as to physical fitness, in prescribed form, are received and examined. If the conditions imposed by law and regulations are complied with, a formal letter is issued extending recognition. From that time on the officer has a federal status, and is entitled to receive the pay authorized by law. Even yet, however, his recognition is conditional, for after several months of active service he is examined by a federal board as to his general education, his knowledge of military duties, and the record which he has made since his original appointment.[21]

Every effort is being made to standardize the training of all the National Guard organizations, especially by detailing officers of the regular army to act as inspectors and instructors. At the present time one officer is usually assigned as inspector-instructor for each regiment, and one sergeant as instructor for each batallion. The hyphenated

21. National Service, Nov., 1921.

title of the inspector-instructor clearly defines his dual duties. Every organization is under inspection whenever he visits it, and receives instruction as to correction of errors of any kind that may develop. It has frequently been found necessary to withdraw recognition from National Guard units because of their failure to maintain federal requirements. Such withdrawal automatically cuts off further allotments of federal funds. Colorado, Tennessee, Texas and other states have had this penalty imposed by the Militia Bureau.[22]

While the federal government was prescribing in detail the organization of the land forces of the several states, legislation was also passed regulating the naval militia. An act of 1914 provided that the arms and equipment of the naval militia should be the same as those required for the landing forces of the vessels of the United States navy. The states were to be supplied with all equipment, including ships and supplies, necessary to the maintenance of efficient organizations.[23] Under the terms of this statute the nucleus of a strong auxiliary force was created, but at the outbreak of the World War the members of the naval militia were transferred to the regular navy. Since the close of the conflict the United States Naval Reserve Force has taken the place of the naval militia of the states.[24]

The National Defence Act of 1916 stipulated that on being drafted into the service of the United States the members of the National Guard should "stand discharged from the Militia."[25] This provision automatically left the states without National Guard organizations after August 5th, 1917. The reorganization of the National Guard following the end of the war proved extremely difficult, owing in part to the antagonism of the labor unions. Hostility was particularly strong in the mining districts of the West, where it was felt

22. Correspondence, Militia Bureau; National Service, Jan., 1921; Nov., 1921.
23. 38 Stat. L., 283.
24. Correspondence, Bureau of Navigation, Navy Dept.
25. 39 Stat. L., 197.

that the chief function of the state troops was the suppression of strikes and disorders beyond ordinary police control. On June 30th, 1920, there were fourteen states without national guard units. A year later, however, the number had dwindled to four, and hearty state co-operation was definitely assured. The annual appropriation for arming, equipping and training the National Guard for the fiscal year 1921 was twenty million dollars, and enough state units qualified for a share in this subsidy to bring the total force up to one hundred and thirteen thousand, six hundred and thirty officers and men, an increase during the year of more than one hundred per cent.[26] The militia of the states has gradually been transformed by means of the subsidy system from a large number of unrelated state units into a co-ordinated national organization supplementary to the regular army of the United States.

26. Reports of the Chief of the Militia Bureau, 1920, 1921.

CHAPTER VII

PREVENTION OF VENEREAL DISEASES

By the end of the first decade of the twentieth century the control of venereal diseases had become a matter of national importance, far transcending state boundaries. The unprecedented growth of large cities had rendered the problem acute. Many centres of population had suburbs in other states, and all the great cities had large transient populations. Fifteen of our states bordered upon foreign countries. The automobile and the railroad had greatly simplified travel, and venereally infected persons could easily pass from one state to another, becoming a menace to the entire nation. When the United States entered the World War the need for federal supervision of some program of venereal disease regulation became imperative. The men of the army and navy had to be protected against infection, even though this involved increased federal control over the civilian population.

In the summer of 1918 Congress appropriated four million, one hundred thousand dollars for the prevention of venereal diseases. One million dollars of this fund was to be used for the purpose of "assisting the various states in caring for civilian persons whose detention, isolation, quarantine or commitment to institutions may be found necessary for the protection of the military and naval forces of the United States against venereal diseases."[1] This work was to be carried on by the Interdepartmental Social Hygiene Board, which was created by the terms of the Chamberlain-Kahn Act, as the statute was popularly called. The board was to consist of the Secretaries of War, the Navy and the Treasury, and of three others appointed by the three ex-officio members.

1. 40 Stat. L., 886.

The sum of two million dollars was to be allotted to the states in two annual installments on the basis of their total population. This grant was to be used by the state boards of health for the prevention, control and treatment of venereal diseases and was conditioned after 1919 upon the matching of federal funds by state appropriations. The first federal allotment did not have to be met. Two annual payments of four hundred thousand dollars each were to be made to universities, colleges and other suitable institutions selected by the Interdepartmental Social Hygiene Board to enable them to conduct scientific research connected with the eradication of venereal diseases. The remaining three hundred thousand dollars of the total federal appropriation were to defray administrative expenses. The Chamberlain-Kahn Act also created a Division of Venereal Diseases in the Public Health Service of the Treasury Department, and vested it with the following duties: "(1) To study and investigate the cause, treatment and prevention of venereal diseases; (2) to co-operate with State boards or departments of health for the prevention and control of such diseases within the states; and (3) to control and prevent the spread of these diseases in interstate traffic."[2]

The organization of the Interdepartmental Social Hygiene Board was greatly handicapped by the clumsy wording of the Chamberlain-Kahn Act, which not only failed to define explicitly the functions and powers of the Board, but prevented it from obtaining the sum set aside for administrative purposes. As a result the Board found itself without funds to pay its office personnel. Two stenographers were furnished by another federal agency; the other members of the office force worked for several months without salaries. Nearly a year passed before this defect in the law was corrected. The three appointed members of the Board were organized into an executive committee in August, 1918, and a few months later an executive secretary was obtained to

2. 40 Stat. L., 886.

handle the actual details of administration.[3]

Subsequently the permanence of the work, including that portion of the Board's activities dealing with the protection of the military and naval forces of the United States, was assured by further appropriations. The task of safeguarding the army and navy is carried on by the field agents of the Interdepartmental Social Hygiene Board, numbering about one hundred and fifty, in every state having important federal military or naval establishments. The general policy of the Board is to enter into an agreement with the health commissioner of the state, assigning its agents to work under his direct supervision. They then receive their directions from the state official, and are accountable to him, though their salaries are paid by the federal government. The state health commissioner is held responsible to the Board for the wise and careful direction of its agents, and for the successful operation of a program of venereal disease prevention approved by the Board. In some states the chief health official has been unwilling to co-operate with the United States in protecting its military and naval forces, and the work has then been carried on directly by the Interdepartmental Social Hygiene Board.[4]

The duties of the federal agents are numerous and varied. They search for red light districts and houses of prostitution, and endeavor to have them closed. In many cases they have been designated as state law enforcement officers, and they then proceed directly to take the steps authorized by state legislation. If they lack the authority necessary to enforce state laws, they enlist the aid of state officials in bringing evidence before the state courts. Their activities have led to the closure of many places that would never have been molested by the local police. Such was the case of "Back River," which for thirty years had been known in Maryland as a source of venereal infection. The principal

3. Report of the U. S. Interdepartmental Social Hygiene Board, 1920.
4. Report of the U. S. Interdepartmental Social Hygiene Board, 1921.

offender was one Joe Goeller, who had a large investment in an "amusement park" and had so intrenched himself with the local forces of law and order that he had nobody to fear, according to his own statement, except the prohibition officers. At his establishment federal inspectors found in September, 1921, nearly forty prostitutes operating with soldiers and sailors. Prostitution and bootlegging were the headliners on the "amusement" program. Similar conditions were found at "Bob's Locust Grove,"a short distance away. With the assistance of state officials prosecution was begun in the courts. The proprietors were each punished with a five hundred dollar fine and a jail sentence of six months. Their places are boarded up. The county police who failed to enforce the law were found to have been corrupted, and they were tried and dismissed in disgrace, thanks to the alertness of federal representatives.[5]

The agents of the Interdepartmental Social Hygiene Board also search for individuals who are carriers of venereal diseases, and arrange for their transference to institutions where they will no longer be a menace to society. They supervise the medical and social treatment given such persons, and investigate their subsequent conduct. Local law enforcing agencies are stimulated to greater activity, with the result that many a state law once a dead letter has become a vital reality under federal leadership. The co-operative forces of each community are marshalled to assist in carrying out the program of eliminating venereal diseases. Studies are made of the reasons that have led people to become infected, in order that unwholesome conditions may be ameliorated.[6] At first the Interdepartmental Social Hygiene Board enlisted the aid of reformatories and hospitals, paying them out of the appropriation made by Congress for the protection from venereal diseases of the armed forces of the United States. It was forced to abandon

5. "Accomplishments, July 1, 1921—Jan. 31, 1922," Interdepartmental Social Hygiene Board Bulletin.

6. Report of the U. S. Interdepartmental Social Hygiene Board, 1920.

this part of its program, however, because of the law making the appropriation for 1921, which contained the proviso that "no part of these sums shall be expended in assisting reformatories, detention homes, hospitals, or other similar institutions in the maintenance of venereally infected persons."[7]

The subsidy granted to the states for the use of their boards of health in the prevention, control and treatment of venereal diseases was correlated with the fund for protecting the army and navy, in order to avoid needless duplication of federal expenditures. The state allotments were to be expended "in accordance with the rules and regulations prescribed by the Secretary of the Treasury."[8] The Interdepartmental Social Hygiene Board was given the duty of disbursing, auditing, and accounting for the federal allotments, while the supervision and guidance of state activities was entrusted to the Division of Venereal Diseases of the Public Health Service. The rules and regulations prescribed by the Secretary of the Treasury in September, 1918, outlined in considerable detail a program for the prevention and control of venereal diseases which each state was obliged to accept before receiving its allotment. The legislatures of states not already possessing adequate laws on the subject were required to put into force a series of statutes providing for the compulsory reporting of venereal diseases to local health authorities, the penalizing of physicians for failure to report infections, the investigation of cases to discover and control sources of infection, the punishment of persons aiding in the spread of venereal diseases, the control of venereally infected persons travelling from place to place within state boundaries, and the distribution to patients of printed circulars of instructions. The wording of these laws had to meet the approval of the Division of Venereal Diseases.[9] Never before had the federal government gone so far in

7. 41 Stat. L., 888.
8. 40 Stat. L., 886.
9. Report of the Interdepartmental Social Hygiene Board, 1920.

prescribing the exact nature of state legislation.

The administration of the laws thus formulated under federal leadership was to be carried out under federal supervision. In each state an officer of the Public Health Service was to be appointed for the purpose of co-operating with the state health authorities in the work of controlling venereal diseases. The selection of this officer was to be made by the state board of health, and his appointment confirmed by the Surgeon General of the Public Health Service. His salary was to be paid by the state out of the federal subsidy, except for a nominal sum of ten dollars a month given directly by the general government. A full-time medical officer in charge of a state bureau of venereal diseases might be recommended by the state board for appointment. If his record proved satisfactory, he was to be made an officer of the Public Health Service, and, as such, a representative of the federal government.

The manner in which federal allotments were to be expended was not left to the discretion of the state boards of health, but was prescribed minutely by the Secretary of the Treasury. Half of the subsidy was to be used for the treatment of infected persons in hospitals, clinics and other institutions. Venereal disease carriers unable or unwilling to prevent themselves from becoming a menace to others were to be isolated and treated in detention hospitals. The free clinics established by the state boards were to secure data for enforcing the regulations concerning the reporting of infections. Twenty per cent. of the federal grant was to be devoted to the carrying out of educational measures, which were to include the dissemination of information to the general public, as well as to infected persons, in regard to the nature and manner of the spread of venereal diseases and the measures that should be taken to combat them. Lectures, posters, pamphlets, moving picture films, lantern slides and other graphic media were to be employed in spreading these facts. Another twenty per cent. was to

be used for repressive measures, such as the elimination of conditions favorable to the spread of venereal infections and co-operation with local civil authorities in their efforts to suppress public and clandestine prostitution. The remaining ten per cent. of the federal subsidy was to be devoted to administrative purposes.[10]

One of the regulations issued by the Secretary of the Treasury under the Chamberlain-Kahn Act provided that money becoming "available from legislative appropriations must not be conserved through the expenditure of funds allotted by Congress." This clause was interpreted by the Interdepartmental Social Hygiene Board, which was given the duty of disbursing the federal grant,[11] to mean that a dollar of state money must be spent for every dollar of federal funds used. Under the procedure adopted the state is required to make all expenditures from its own funds, submitting the paid vouchers to the Board for audit. An United States Treasury warrant covering fifty per cent. of the state disbursements is then paid to the state treasurer. Paid vouchers submitted by a state and found not to comply fully with federal requirements are either disallowed and returned at once or else suspended until further information can be obtained. In this way the Interdepartmental Social Hygiene Board is assured that each state receiving federal allotments has appropriated an equal amount and expended it in accordance with federal regulations.[12]

In less than a year after the passage of the Chamberlain-Kahn Act forty-six states had accepted its terms and entered into co-operation with the general government for the purpose of eliminating venereal diseases. State legislation has been greatly influenced by federal leadership. In July, 1918, only six state boards of health required that gonorrhea and syphillis be reported as dangerous communicable

10. Report of the Surgeon General of the Public Health Service, 1920.
11. Cf. supra, p. 85.
12. Report of the Interdepartmental Social Hygiene Board, 1921.

diseases; four years later the requirement was found in every state of the Union.[13] Free clinics have been established by state boards of health, and hundreds of thousands of cases treated. Informational programs have carried the facts of venereal disease control to the public. Federal aid was greatly diminished during the fiscal year 1922 because of a lack of funds, but it is hoped that Congress will soon remove this handicap by making a new appropriation. National supervision has produced such satisfactory results that it must not now be abandoned. By means of an annual subsidy of little more than a million dollars the states have been induced to co-operate in carrying out a nation-wide program of venereal disease control framed by the federal government, and intended to meet both national and local needs.

13. Correspondence, Public Health Service.

CHAPTER VIII

OTHER SUBSIDIES

The remaining subsidies granted by the federal government to the states may readily be grouped together in a single chapter. Most of them are unimportant, both from the standpoint of the financial aid given and that of the administrative control secured. Some are merely of historic interest. Others are granted sporadically, and are not a part of any definite federal program. Only one deviates in any way from the general outlines of the American subsidy system already described.

Perhaps the most important of these grants is that made for the promotion of the welfare and hygiene of maternity and infancy. This law, popularly known as the Sheppard-Towner Act, was passed and given presidential approval in November, 1921. It appropriated one million, four hundred and eighty thousand dollars for the fiscal year 1922, and one million, two hundred and forty thousand dollars annually for five succeeding years. Fifteen thousand was to be paid to each state the first year, and ten thousand dollars thereafter, the balance being apportioned on the basis of total population. The legislature of each state receiving federal allotments was required to accept the terms of the statute, to designate or create a state board vested with adequate power to co-operate with the federal administering agency, and to match the federal grant above ten thousand dollars the first year, and above five thousand the following years.

The Sheppard-Towner Act created a Board of Maternity and Infant Hygiene, consisting of the Chief of the Children's Bureau of the Department of Labor, the Surgeon General of the Public Health Service of the Treasury Department, and the Commissioner of Education of the Department of the Interior. This Board was directed to

supervise in a general way the carrying out of the provisions of the federal statute, but the actual details of administration were entrusted to the Children's Bureau, whose chief became ex officio the executive officer. Each state was required to submit to the Children's Bureau, through its co-operating board, detailed plans for educating women to take proper care of themselves and their babies at the most crucial time of their lives. Federal funds were not to be used for land or buildings, nor "for the payment of any maternity or infancy pension, stipend, or gratuity."[1]

The Children's Bureau was to pass upon the plans submitted by each state, and to determine their adequacy. If satisfied that they met the needs of the state for which they were designed, and that the other requirements of the Sheppard-Towner Act had been fulfilled, it was to issue a certificate entitling the state to its share of the federal subsidy. This certificate might be withheld, with the approval of the Board of Maternity and Infant Hygiene, whenever it was determined that any state was not properly expending the federal funds apportioned to it or the state money appropriated to match the federal subsidy.

The Sheppard-Towner Act corrected a serious defect of the American subsidy system—the provision permitting a state to appeal to Congress over the head of the federal bureau charged with the task of administration. This clause is found in nearly every previous subsidy law, and might have proved a serious handicap to the efficient working of the system had not the states refrained, save in a single instance, from exercising their right of appeal.[2] By the terms of the Sheppard-Towner Act any state cut off from federal allotments is permitted to submit its case to the President, who may fairly be presumed to be a more impartial arbiter. In this way administrative policies have been rescued from disastrous legislative interference. It

1. 42 Stat. L., 224.
2 Cf. supra, p. 22.

is unfortunate that earlier subsidy legislation was not similarly framed.

The states were not slow to accept the terms of the federal grant. In less than six months after the passage of the Sheppard-Towner Act forty-one had agreed to its provisions and had taken steps to meet federal requirements. So anxious was Pennsylvania to co-operate with the general government in the work of protecting maternity and infancy that while the federal statute was pending in Congress the legislature of the state passed a bill authorizing the governor temporarily to accept its provisions should it become law.[3]

The work done by the Board of Maternity and Infant Hygiene in the months immediately following its organization was largely tentative and experimental. It was decided that general rules and regulations should not be formulated at once, but that the plans submitted by each state should be judged with reference to local conditions and needs. State programs were approved only for the balance of the fiscal year 1922. Arrangements were made for a meeting of the state health officials in Washington in the spring of 1922, in order to lay the basis for efficient and harmonious co-operation between the federal government and the states.[4] The Sheppard-Towner Act is of interest primarily because it marks another federal venture into the field of social legislation, a domain that has been occupied until recent years almost exclusively by the states.

Most of the land grants to the states have been made for the promotion of education or the construction and maintenance of highways, and have already been discussed.[5] Other grants of land have been made by Congress from time to time, however. As early as 1816 Indiana was given

3. Philadelphia Public Ledger, May 7, 1922.
4. Correspondence, Children's Bureau.
5. Cf. supra, ch. 2 & 5, passim.

four sections of the public domain, "for the purpose of fixing the seat of government thereon." Following the precedent thus established, every public land state except Ohio and Louisiana has been given land for public buildings, the amount of the grant gradually rising. Eleven states received fifty sections each; and Utah, with much desert land of doubtful value, received one hundred. The land was originally given for a seat of government, but later to defray the cost of erecting public buildings. More than half a million acres have been donated by Congress to enable the states to construct suitable government buildings.[6]

Three acts passed between 1849 and 1860 granted large areas of swamp and overflowed lands to the states.[7] The United States did not wish to drain these portions of the public domain, and so adopted the policy of giving them to the states, on condition that the proceeds should be used, as far as necessary, for the reclamation of the lands. Many disputes were caused by the attempt to determine just what were swamp lands, but most of the claims have now been closed out. By the end of the fiscal year 1921 the fifteen states which were the beneficiaries of the swamp land grants had received title to nearly sixty-four million acres, and a number of other claims were still pending.[8]

As early as 1827 Congress began to donate land to the states to aid in the construction and operation of canals. By 1866 the total had reached four and one-half million acres, but it had become clear by that time that the railroads were destined to supplant the canals in large measure, and after the Civil War vast grants of public land were given to encourage railroad building. The several states received about forty million acres, and the railroads themselves received about twice that amount. The federal government made no attempt to supervise the expenditure of the pro-

6. Orfield, M. N., op. cit., p. 73.
7. 9 Stat. L., 352, 519; 12 Stat. L., 3.
8. Report of the Commissioner of the General Land Office, 1921.

ceeds from the sale of these lands.[9]

In 1894 a statute popularly known as the Carey Act provided for the donation to the states of a portion of the desert lands within their borders. A certain measure of control over the disposition of the lands was to be exercised by the federal government. Under the terms of the act the Secretary of the Interior was empowered to contract with any state to grant to it such of its desert lands, not exceeding one million acres, as it should cause to be irrigated, reclaimed and occupied by actual settlers within a period of ten years. Each state making application was required to file a map of the area which it proposed to irrigate, showing the source of the water to be used and the mode of irrigation to be adopted. The land was to be considered reclaimed only when it was prepared to raise ordinary agricultural crops. The Secretary of the Interior was to determine the adequacy of the plans submitted by the states, and to segregate the acres for which suitable reclamation projects were proposed. Title to the lands was to pass to the states only when the irrigation programs were completed. Further provision was made that not more than one hundred and sixty acres should be sold to any one person, and that any surplus derived from the sale of the lands in excess of the cost of their reclamation should be held as a trust fund and applied to the reclamation of other desert areas.[10]

An act passed in 1901 gave the states an additional five years in which to meet federal requirements.[11] The maximum amount of land to which title might be secured under the provisions of the Carey Act was increased to two million acres in each of the states of Wyoming, Nevada and Colorado,[12] and to three million acres in Idaho.[13] By the end of the fiscal year 1921 ten states had applied for lands

9. "Land Grants Made by Congress," Statement of the General Land Office, 1915; Report of the Commissioner of the General Land Office, 1920.
10. 28 Stat. L., 422.
11. 31 Stat. L., 1133, 1188.
12. 35 Stat. L., 347; 36 Stat. L., 1363, 1417; 37 Stat. L., 38.
13. 35 Stat. L., 317, 577.

totalling more than eight million acres. Half of their proposals had failed to meet federal approval, however, and they had received title to less than one million. Four of the ten states had failed to qualify for a single acre. More than half of the total was granted to Idaho, where large projects diverting water from the Snake and Malad Rivers had been completed. The inadequacy of many of the plans submitted and the failure of several states properly to execute programs that had been well prepared emphasized in a striking manner the need for federal supervision of state activities.[14]

Congress passed an act in 1879 which provided that if any state or territory should take a census midway between the decennial censuses of the United States, on schedules and forms similar to those used by the United States Census Bureau in taking the federal census, half the expense would be borne by the federal government. The Secretary of the Interior was directed to determine which states were fulfilling the requirements of the law, and to authorize payment to those earning federal allotments. In order to protect the United States against wasteful expenditures stipulation was made that any state or territory taking a census as prescribed by the federal government should receive, not one-half of the amount certified by the officials of the state or territory, but "a sum equal to fifty per centum of the amount which was paid to all supervisors and actual enumerators within such State or Territory at the United States census next preceding, increased by one-half the percentage of gain in population in such State or Territory between the two United States censuses next preceding."[15] This act seems to have passed almost unnoticed. In 1885 three states and two territories availed themselves of its provisions and received subsidies from the federal govern-

14. Report of the Commissioner of the General Land Office, 1921.
15. 20 Stat. L., 480.

ment, but since that time no state appears to have considered the federal offer sufficient to induce it to take a census on its own initiative under federal direction.[16]

River and harbor improvements are usually conducted directly by the federal government, without state co-operation. Occasionally, however, the states have been required to assist in specific projects. The plan for improving the ship canal at Houston, Texas, contained the stipulation that local interests must furnish without cost to the United States all necessary easements and dumping grounds, and contribute the sum of one million, three hundred and sixty-five thousand dollars towards the work. Congress agreed to improve the Columbia and Willamette Rivers from Portland to the sea on condition that the City of Portland assist in the task of improving and maintaining the channel in the Columbia and accept full responsibility for maintaining the channel in the Willamette. The act providing for the control of floods of the Mississippi and Sacramento Rivers required that local interests contribute not less than one-half as much as the federal allotments for the construction or repair of levees on these streams. There are a number of other instances of federal and state co-operation, but they are overshadowed by the vast rivers and harbors appropriation made annually by Congress and expended directly by federal bureaus.[17]

Federal funds are granted to the states for a number of other purposes. A portion of the annual appropriation for the Bureau of Agricultural Economics is contributed toward the salaries and expenses of state marketing agents co-oper-

16. Correspondence, U. S. Bureau of the Census.
17. Correspondence, Office of the Chief of Engineers of the War Dept.

atively employed by the federal and state governments.[18] Subsidies are also given for the eradication of the foot-and-mouth disease and for arresting the ravages of the pink boll-worm and other pests. Every year money is contributed in support of state homes for disabled soldiers and sailors of the United States. These appropriations are relatively small, and their administration involves no unusual features.[19]

18. Correspondence, Bureau of Agricultural Economics.
19. 42 Stat. L., 158; Correspondence, Bureau of Animal Industry of the Dept. of Ag.

CHAPTER IX

SUBSIDIES ABROAD

a. GREAT BRITAIN

Strange as it may seem, the only foreign country that has made use of a system of subsidies to direct the activities of local authorities is Great Britain. It is to Great Britain, therefore, rather than to a federal republic, that Americans interested in an extension of the federal aid policy must turn to obtain the result of foreign experience. The British tradition of local autonomy has always been carefully guarded, and the people have been quick to resent any encroachment upon their local prerogatives by the central government. During the first quarter of the nineteenth century, however, it became clear that the national authorities must find some way of increasing national supervision and control without offending local pride and without losing the very real advantage of local initiative and local freedom to experiment. The result was the development of the grant in aid, which Mr. Sydney Webb, a brilliant student of English institutions, but unfamiliar with the American subsidy system, characterizes as "a device peculiar to English administration."[1] In the course of the three-quarters of a century following 1832 the national government purchased successively the rights of inspection, audit, supervision, initiative, criticism and control of one local service after another and of one local governing body after another. This it did by means of grants in aid, or subsidies from the national exchequer.[2]

The first subsidy seems to have been made in 1833 for educational purposes. Twenty thousand pounds annually were granted to the local authorities, to be used for the erection of school buildings. In 1839 the annual allotment

1. Webb, Sydney, "Grants in Aid," p. 1.
2. Ibid., p. 6.

was increased to thirty thousand pounds, and was made available without restriction for matters connected with elementary education. A separate committee of the Privy Council was created to supervise local expenditures from national funds. Meanwhile the amount of the grant continued to increase, and by 1875 more than half of the total expenses of the schools of England were being met by Parliamentary subventions. Payments to the local authorities were conditioned upon compliance with specified conditions as to buildings and teaching staff, and were based upon the results of the teaching of elementary branches as reported by government inspectors. Parliament made change after change in the manner of disbursing the subsidy, pursuing no uniform policy. As a result, endless complications were introduced. Board schools and voluntary schools were placed on a different footing. Allotments were proportioned to the amounts raised from local sources. Until 1870 no school was subsidized unless connected with the Church of England, the Roman Catholic Church or the Wesleyan Church. There were annual grants, fee grants, aid grants, small population grants and others of less importance. Although attempts at reform were made from time to time, it was not until 1918 that provision was made for a truly national system of education, controlled directly by local authorities but supervised and directed by the central government. The Fisher Education Act, passed in that year, consolidated the multifarious grants into a single subsidy, and vested in the National Board of Education the right to withhold allotments. Many complications and anomalies still exist, but the national government has at last been placed in a position to enforce national minimums of education and training.[3]

Perhaps the most successful of all British subsidies is that for the police. The modern organization of the non-metropolitan police throughout the country dates from 1856,

3. Cyclopedia of Education, v. 2, article, "England"; Kandel, I. L., in "Educational Review," Dec., 1918; Webb, Sydney, op. cit., pp. 68-82.

when it was made the duty of every county and large borough to maintain a force for the preservation of order. Provision was made for defraying one-fourth of the cost of pay and clothing from the national excheqeur, subject to approval by the Home Secretary of the numbers and discipline maintained. Any local police force failing to meet national standards might be cut off from further allotments. The results have fully justified the plan. Standards have been raised and national policies put into effect without interfering with local autonomy. According to President Lowell, who has made a careful study of English administration, "it is astonishing how careful any public body will become not to forfeit a grant of this kind after becoming accustomed to receiving it."[4] The proportion of the cost of pay and clothing borne by the national government was later increased to one-half, and in 1888 the fixed Exchequer Contribution Account was substituted for the various grants. Stipulation was made, however, that any county or county borough whose police proved inefficient should pay to the Treasury a fine equal to one-half of the cost of pay and clothing. In practice the financial argument has proved irresistible. There is no instance in recent times of a local police authority actually losing its grant. The mere threat of withdrawal has invariably been enough to secure compliance with the demands of the Home Office.[5]

Public health and sanitation are brought under the control of the central government by means of a grant in aid. The salaries of the local medical officers and inspectors of nuisances are paid by Parliament, and this enables the central government to regulate the conditions under which they may be appointed and dismissed, as well as the duties they are to perform. The Local Government Board, which was until 1919 an administrative branch of the central government, was authorized to dismiss an undutiful officer, though the original appointment was made by the local

4. Lowell, A. Lawrence, "Government of England," v. 2, p. 291.
5. Redlich & Hirst, "Local Government in England," v. 2, p. 309.

authorities. An officer dismissed or suspended by local officials might be restored by the Local Government Board. Most important of all the weapons in the arsenal of the general government, however, was the provision that in case the local sanitary authorities failed in the performance of their duties, the Local Government Board might withhold from the County Council the certificate authorizing the payment of the grant in aid for the salaries of the sanitary officers of the district. The mere threat of withdrawal almost invariably proved sufficient to secure results, and enabled the central government to carry out a national policy of sanitation and hygiene.[6] In 1919 the Local Government Board was abolished, and its functions transferred to the Minister of Health.

Subsidies are granted to the local units for a number of other purposes. A certain sum is paid per capita for the care of the inmates of lunatic asylums. Reformatory and industrial schools are subsidized, and grants are made for the assistance of unemployed workmen. Within the last decade grants in aid for the treatment of venereal diseases and tuberculosis, and for the promotion of the welfare and hygiene of maternity and infancy, have been added to the list. Highways, which occupy so prominent a place in the American subsidy system, have not yet been brought under the supervision of the central government. The tradition still persists in Great Britain that the roads of the nation are of purely local concern, but this condition of affairs is rapidly being changed by the development of a Road Board of the general government.[7]

The grant in aid has proven so satisfactory as a device for securing central administrative supervision without destroying local initiative that it has been carried much farther than in the United States. Sixty-five million pounds are paid annually from the British national exchequer to

6. Redlich and Hirst, op. cit., v. 2, pp. 245, 292; Lowell, A. L., op. cit., v. 2, p. 290.
7. Webb, Sydney, op. cit., passim.

the local authorities in the form of grants in aid, according to an estimate made by Mr. Sydney Webb.[8] In other words, Great Britain is distributing annually in the form of subsidies four times the amount per capita expended by the United States.[9] Of this vast sum, more than seventy-five per cent. is given for educational purposes.[10] All forms of education are brought under the supervision of the central government, and not merely the few special forms, such as vocational education, brought under American federal control.

The British subsidy system seems to have assumed its present proportions without definite planning and even without the recognition of those not directly concerned. As a result different policies, some of them contradictory, have been adopted in framing the several grants in aid. Some grants are paid directly to the districts charged with their expenditure; other grants are distributed to local authorities only as conduit-pipes to other local authorities. Many different bases of apportionment are used, so that a local unit getting a relatively large share of one subsidy because of its poverty may receive a relatively small share of another subsidy because a different basis has been used. A district refused a share of one grant because a particular service is not up to the prescribed national minimum of efficiency may yet be receiving a portion of another grant for the performance of that very service.[11]

The grants in aid are not all used for the purpose of giving weight to the criticisms and suggestions of the central government. On the contrary, some are made irrespective of the inefficiency and insubordination of local authorities. A local Board of Guardians may refuse to comply with the directions of the Ministry of Health, and even fail to meet its statutory obligations, yet receive a grant for the relief

8. Webb, Sydney, op. cit., p. 38.
9. Cf. supra, p. 4.
10. Webb, Sydney, op. cit., pp. 81-82.
11. Ibid., pp. 27-29.

of the poor amounting to more than half of its total expenditures.[12] This is not true, however, of most of the grants in aid. Those for education, police, and for the newer functions of government, such as the promotion of the welfare and hygiene of maternity and infancy, are conditioned upon the maintenance of minimum standards and the execution of national policies.[13] The result has been, despite the many absurdities caused by a lack of definite purpose, the creation of an effective system of central administration based on the principle of inspection, and lacking that power of coercing local authorities which is the keynote of the Continental system.

b. CANADA

Nearly forty millions of dollars are paid annually by the Government of Canada to the provinces of the Dominion, but these grants are merely a matter of financial adjustment, and are not used for the purpose of increasing central administrative control. By the terms of the British North America Act of 1867 the general government agreed to pay yearly to the several provinces fixed subsidies totalling two hundred and sixty thousand dollars, and in addition an annual grant to each province apportioned on the basis of its population. These subsidies were to be paid semi-annually in advance, and were to be "in full settlement of all demands on Canada." New Brunswick was given a supplementary grant which was to be diminished in direct ratio to any decrease in its public debt. The officials of the province were thus robbed of all incentive to reduce its liabilities.[14]

This arrangement was continued until 1907, when the amount of the subsidies was greatly increased. Under the revised settlement, which has been but slightly amended, each provincial government receives a fixed grant based on population and "a grant at the rate of eighty cents per head

12. Webb, Sydney, op. cit., pp. 46-47.
13. Ibid., p. 76.
14. 30 & 31 Vict., c. 3, sec. 118 & 119.

of the population of the province up to the number of two million, five hundred thousand, and at the rate of sixty cents per head of so much of the population as exceeds that number."[15] Prince Edward Island is given an additional one hundred thousand dollars yearly by an act of 1912,[16] and British Columbia was similarly favored for a limited period of years. Other special payments are made to the provinces from time to time. The total of all grants during the fiscal year 1920 was $4,490,860.[17] The manner of expending the funds received is left entirely to the provincial governments.

c. GERMANY

When Germany became a republic, the federal government assumed complete control of all financial matters. By the Revenue Law of 1920 the states and communes were required to give up their right of taxing many sources of income, and were permitted to tax only those sources not appropriated by the general government. This arrangement so limited the ability of the states to raise funds that a portion of the federal revenues was allotted to them. The subsidies were to be paid to the states, and distributed by them among the communes. New state or communal tax orders were to take effect only after inspection and approval by the federal Minister of Finance.[18]

The federal budget of 1922 called for the raising of 188,926,800,000 marks, by means of the imposition of eighteen different kinds of taxes. A part of the income from seven of these taxes was to be paid to the states as listed below, in exchange for their renunciation of the right to tax most of their former sources of revenue.[19]

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15. 7 Edward VII, c. 11.
16. 2 Geo. V, c. 42.
17. Canada Year Book, 1920, p. 559.
18. Reichs Gesetz Blatt, 1920, p. 402.
19. Wirtschaft und Statistik, 2 Jahrgang, Nummer 4

Name of Tax	Total Revenue (Marks)	State Share (Marks)	Percentage to State
Income	23,000,000,000	15,333,000,000	66 2-3
Sales	24,000,000,000	3,600,000,000	15
Corporation	4,000,000,000	2,667,000,000	66 2-3
Inheritance	700,000,000	140,000,000	20
Luxuries	500,000,000	250,000,000	50
Land Increment	550,000,000	275,000,000	50
Securities Transfer	2,360,800,000	25,000,000	1 plus
Total	55,110,800,000	22,290,000,000	40.4

In other words, the states were to receive forty and four-tenths per cent. of the total to be raised by the seven taxes. A comparison of the 22,290,000,000 marks to be paid to the states with the 188,926,800,000 marks to be raised by the federal government shows that the states were to receive eleven and seven-tenths per cent. of the total amount from all federal taxes. Two different bases of apportionment were to be used. Some taxes were to be distributed on the basis of the amount raised within each state; others were to be apportioned according to population, in order to equalize to some extent the burdens of the different states.[20] The subsidies granted to the states by the federal republic of Germany are not of especial interest to students of the American system, for they are mere doles to administrative units, and are not needed to strengthen the authority of the already supreme central government.

d. FRANCE

In France, the classic land of centralized government, the method of granting subventions, as they are called, is very similar to the plan now in force in Germany. There are few sources of revenue which are not reserved for the sole use of the national government. The local units are required to levy taxes in support of various national functions, in addition to the taxes which they must impose for their own purposes. They are then given subventions from the na-

20. R. G. B., 1920, p. 402.

tional treasury. As in Germany, these grants are not used to increase central administrative control. The principal purposes for which they are granted are primary education, police, highway construction and maintenance, and public assistance, including the care of the insane, the aged, and other public charges.[21]

21. Desbats, A. G., "Le Budget Departmental," p. 146 et seq.

CHAPTER X

THE FUTURE OF THE AMERICAN SUBSIDY SYSTEM

The rapid growth of the American subsidy system in the last decade has forced it upon the attention of men in public life, and has subjected it to the attacks of a host of critics. Former Governor Lowden, of Illinois, expressed the views of many when he declared: "There is scarce a domain in the field of government properly belonging to the municipality or the state which the federal government is not seeking to invade by the use of the specious phrase 'federal aid.' . . . This rapid extension of federal administration not only means greatly increased expense because of duplication of efforts, but it means the gradual breaking down of local self-government in America."[1]

The objections to federal subsidies raised by the opponents of the system are numerous. Perhaps the most common is the charge that subsidies are leading to the development of a despotic central government, absorbing the powers of the states and menacing the private liberties of their citizens. The rapid extension of federal power since the Civil War, and especially during the past ten years, is pointed to with alarm. The federal government is pictured as a giant octopus, reaching out with greedy arms to rob the people of their rights. The specter of an omnipotent and merciless bureaucracy is conjured up to afright the timid. The old arguments for states rights are resurrected, and the people are warned "to halt the destructive processes that are transferring all of the powers of local self-government to remote and irresponsible bureaus in Washington."[2]

Those who follow this line of reasoning seem to believe that the state legislatures represent the people, while the

1. Lowden, Frank O., Convocation Address, University of Chicago, June 1921.
2. St. Louis Post-Dispatch, Editorial, Mar. 19, 1922.

national Congress does not. They imply that the states are the jealous guardians of the civil liberties which a rapacious federal government is constantly striving to destroy. They forget that the national government also represents the citizens of the nation, and that the people speak through their representatives at Washington as well as through their representatives in their state capitals.

The real reason for the rapid growth of the powers of the federal government in recent years, by interpretation as well as by formal amendment, is found in the complete failure of the states to solve the vast social and economic problems confronting them. Railroad and telegraph lines have bound the nation from coast to coast; great corporations have extended their activities over the entire country; labor unions have far transcended state boundaries. There has been need for regulation, and the states have found themselves impotent. For many functions of government the proper unit of administration has become the nation.

Professor Lowrie, of the University of Cincinnati, made clear the need for federal supervision of state activities when he laid down the principle that governmental power should be as broad as the problems with which it must deal. The failure to accept this criterion has led to the breakdown of state administration. State railway commissions, industrial commissions, public utility commissions, insurance commissions, banking commissions, health commssions, and a multitude of others have been created. All have been given broad regulatory powers; but the scope of their activities has necessarily been confined within state boundaries, while private enterprises have been bound by no such limitations. State commissions have applied rulings without regard for the nation-wide character of the enterprises controlled. State constitutions, state laws, and state judicial interpretations have made almost impossible the establishment of national policies and national standards of efficiency.

The trend toward an extension of federal power has been natural and inevitable under the circumstances. Up to a certain point it is desirable; beyond that point it does contain the danger of excessive centralization. Local self-government has been a factor of great importance in the lives of the American people. As pointed out by the late Viscount Bryce, "nothing has more contributed to give strength and flexibility to the government of the United States, or to train the masses of the people to work their democratic institutions."[3] But local wisdom and experience are not sufficient to solve the complexities of national problems, and local self-government cannot retain its vitality and efficiency unless brought under some measure of federal supervision.

Those who fear the extension of federal power frequently quote the framers of the Constitution in confirmation of their views. "Ambitious encroachments of the Federal Government on the authority of the State Governments, . . . " declared James Madison, "would be signals of general alarm. Every Government would espouse the common cause. . . . The same combination, in short, would result from an apprehension of the Federal as was produced by the dread of a foreign yoke." The futility of applying the words of the fathers to modern conditions is apparent. The states are in no position to check the "ambitious encroachments of the Federal Government," for they are dependent on federal financial assistance. This condition of affairs should be welcomed, and not regretted. Applying Professor Lowrie's test, we find that the problems of government are no longer confined within the narrow limits that bound them at the time of the framing of the Constitution, and that in consequence the powers of government must be correspondingly broadened.

Even the constitutional right of the federal government to grant subsidies to the states has been questioned by the opponents of the system. In the spring of 1922 the Attor-

3. Bryce, James, "American Commonwealth," v. 2, p. 659.

ney General of Massachusetts gave an opinion that the Sheppard-Towner Act for the promotion of the welfare and hygiene of maternity and infancy was unconstitutional, since it dealt with matters reserved exclusively to the states.[4] It is difficult to follow this line of reasoning. In none of its subsidy laws has the federal government attempted to coerce the states; it has relied entirely on financial inducements. The states are free to do as they please, but they are rewarded substantially for meeting federal standards. Such legislation can scarcely be deemed a violation of the police power of the states. A case testing the validity of the Sheppard-Towner Act is now (January, 1923,) before the Supreme Court of the United States.

Somewhat more difficult to refute are arguments directed against the expediency of the subsidy system. Mr. Douglas Sutherland, Secretary of the Civic Federation of Chicago, charges that the extension of the number and size of the grants to the states will lead to endless complications and hopeless confusion.[5] Such certainly seems to have been the result of the British grants in aid. The absurdities and complications of the British system are probably due, however, to the haphazard manner in which it has been permitted to develop rather than to any defect in the system itself. Mr. Sydney Webb, who has made a comprehensive study of the British grants, declares that they have brought about "a remarkable combination of liberty and efficiency."[6] If properly co-ordinated, federal subsidies should result in a marked simplification of American administration.

Apparently the states have co-operated with the federal government in good faith, and have made but few attempts to secure their allotments without meeting the conditions imposed. The bureau chiefs administering the various subsidy laws agree that illicit pressure is not brought to bear by local units. Federal recognition is occasionally with-

4. Philadelphia Public Ledger, May 5, 1922.
5. Sutherland, Douglas, "Federal 'Aid,'" Supplement to Bulletin No. 44 of the Civic Federation of Chicago.
6. Webb, Sydney, op. cit., p. 6.

drawn for failure to meet requirements, but in only one instance has a state exercised its right of carrying an appeal to Congress.[7] Questionnaires sent out by Professor Arneson, of Ohio Wesleyan University, to the highway directors of the several states, brought an overwhelming majority of replies expressing the satisfaction of the states with existing arrangements.

An advantage of the subsidy system frequently overlooked or minimized by its opponents is that it equalizes to some extent the tax burdens of the several states. Federal funds raised in large measure on the basis of income are apportioned to the states mainly on the basis of population. Localities too poor to perform adequately even the primary functions of government are stimulated by the receipt of federal allotments raised almost entirely in more wealthy districts. This feature of the system has led to severe criticisms and charges of injustice. It is difficult for the average citizen to realize that the welfare and prosperity of each state depend upon the welfare and prosperity of the entire nation. It was once equally difficult for him to comprehend the justice and expediency of contributing to the cost of educating other people's children. Senator King of Utah, discussing a proposed subsidy law, asked Senator Smith of Georgia, the sponsor of the measure, if he believed that a state unwilling to accept federal aid should be taxed for the benefit of states receiving federal funds and supervision. "Yes," replied Senator Smith, "just as I believe that the rich man should be taxed to take care of public schools everywhere, whether he wants to send his children there or not."[8] A national minimum of educational opportunities, of good roads, of public health and sanitation, and of many other things, must be maintained, even if revenues are diverted from the wealthier states to those less able to bear the burdens of taxation. In fact, it would be well to adopt a basis of apportionment for each

7 Cf. supra, pp. 22-23.

8. Cong. Record, v. 60, pt. 3, p. 3041.

subsidy that would reflect more accurately than population the need for federal aid.

Despite the objections of critics, the number and amount of federal subsidies have increased with mushroom-like rapidity during the last decade. In 1912 the total of the appropriations made by Congress for distribution to the states was a little more than six million dollars. This total rose to six and one-half millions in 1913, decreased slightly in 1914, and rose to twelve million dollars in 1915. In 1916 there was again a slight decrease, but in 1917 the total of federal funds allotted to the states reached the unprecedented sum of fifty-three and one-half millions, an increase of four hundred and fifty-four per cent. over the preceding year, and of seven hundred and eighty-one per cent. over 1912. This vast expansion was due largely to the appropriations made for the training and equipment of the National Guard as the danger of war became imminent. Federal allotments amounted to but forty-eight millions in 1918, but the following year they rose to more than eighty-seven million dollars, an increase of eighty-two per cent. over 1918, and of thirteen hundred and forty per cent. over 1912. Every succeeding year has witnessed an expansion of the subsidy system. The total of federal grants in 1920 was one hundred and twenty-two millions; the following year it was one hundred and thirty-seven millions; and in 1922 it amounted to one hundred and eighty millions of dollars. Federal subsidies have increased nearly three thousand per cent. in a single decade. Until 1917 the grants for education and the National Guard comprised more than ninety-five per cent. of the whole; since that time education, the National Guard and highways have represented all but two or three per cent. The highway subsidy accounted for nine per cent. in 1917, twenty per cent. in 1918, and more than seventy per cent. in every succeeding year.

The subsidy system has assumed a prominent place in American administration almost overnight. Following the

example of the states, which have long aided financially their civil subdivisions, the federal government has added one subject after another to the list, at the same time increasing enormously the amount of its grants. Naturally enough, perhaps, an entire lack of co-ordination has resulted. Subsidies are made arbitrarily by Congress, without a definite program before it. Some are granted for objects of doubtful worth, and nearly all are granted without regard to the amount necessary to stimulate local authorities to the highest degree of efficiency. No intelligible principle has been formulated to guide the national legislators in granting funds to the states.

A vital need exists, therefore, for a set of principles on which to base the American subsidy system. Satisfactory results cannot be obtained by picking out various objects at random, and subsidizing them for arbitrary amounts, regardless of need. English experience offers no helpful suggestions, for, if we may believe Mr. Webb, the English grants in aid are hopelessly muddled and confused.[9] It may be too late to transform the multifarious English grants into an orderly system of administration, but time still remains to bring order out of chaos in America's administrative household.

What is really needed is a comprehensive and scientific answer to each of four questions that have been brought into prominence by the rapid expansion of the federal aid policy. Congress has evaded replying, or has answered illogically and inconsistently. These four questions are:

1. For what purposes shall subsidies be granted to the states?

2. What percentage, if any, of the cost of performing each function of government shall be borne by the nation as a whole?

3. Upon what conditions shall the federal subsidies be granted?

9. Webb, Sydney, op. cit., passim.

4. What shall be the bases of apportionment?

Each question is important, and deserves separate consideration.

The answer usually given to the first is that subsidies should be given to the states for matters of national importance only. "The federal government should appropriate only for interests which are purely of national concern and clearly within the purposes for which the federal union was established," declared ex-Governor Lowden,[10] and his words are cited approvingly by Mr. Douglas Sutherland. In practice, however, it is impossible to apply such a criterion. Are there any functions of government which cannot properly be considered matters of national importance? Highways and militia may be included in the list of federal subsidies by practically unanimous consent. Education is generally classed as a local function, yet it cannot be denied that the welfare of a state is increased by the improvement of the educational facilities of the other states of the Union. The health, the morals, the training, the protection of the American citizen are all matters of interest to the entire nation, and not only to a single community. The states cannot be permitted to pursue their devious ways at their pleasure, free from federal supervision, for the nation has become a vast unit, and a single diseased part will poison the whole. It may safely be assumed, therefore, that subsidies should be granted for those functions of government which the states cannot or will not carry out adequately without the stimulus of federal supervision and federal funds. Under this heading may properly be included the construction of highways, for otherwise there can be no co-ordinated national system of roads; the organization and training of the National Guard, for the experience of more than a century has demonstrated the futility of experimenting with state supervision of the militia; education, for national supervision in the fields of agricultural and vocational edu-

10. Lowden, Frank O., Convocation Address, University of Chicago, June, 1921.

cation has brought about results that could never have been accomplished by the states, and has justified the further extension of federal activities; public health, for the federal government has been able to establish and enforce higher standards of health regulation in certain fields; and all other functions which the states have proven themselves incompetent to perform, whether that incompetence be the result of local ignorance or indifference, or of defective state administration.

The second question is a natural corollary of the first. Having decided that a given function of government is to be performed jointly by the nation and the states, it becomes necessary to determine what percentage of the total cost shall be borne by each. No uniform principle has been adopted, and the system in its present form displays marked variations. Approximately seventy per cent. of the total expense of maintaining the National Guard is borne by the federal government, the remainder being met by state appropriations.[11] Only about ten per cent. of the total expenditures for highway construction in the United States comes from the federal treasury.[12] Not more than one and one-half per cent. of all public expenditures for education are met by the nation, and the percentage would be still smaller were it not for the inclusion among the educational subsidies of the grants for co-operative agricultural extension work.[13] Between two of the three most important federal grants—militia and education—there exists a difference of sixty-eight and one-half per cent. The need for some degree of uniformity is apparent. The nation's share of the total cost of performing any governmental function should be small, for it is inadvisable to interfere unnecessarily with the autonomy of local government. The grant must be sufficiently large, however, to induce the local authorities to

11. Reports of the Chief of the Militia Bureau 1920, 1921; Financial Statistics of States, 1919.
12. Correspondence, Bureau of Public Roads.
13. Correspondence, Bureau of Education.

accept the criticism and advice of federal officials. The general principle may therefore be formulated that the percentage borne by the nation of the total expenditures for any function of government should be as small as possible consistent with the securing of adequate federal supervision and control.

As to the conditions upon which federal subsidies should be granted, one is of paramount importance. The federal government must demand the right to superintend and direct the expenditure, not only of its grants to the states, but of all funds from whatever source administered by the state co-operating agencies. The conditions upon which grants have been made to the states are many and varied. Eight states agreed not to tax United States lands, and nine promised not to tax the lands of non-resident citizens of the nation higher than those of residents. Alabama agreed that its navigable waters should remain public highways, and free from tolls.[14] All recent subsidy laws have reqiured the states to match federal allotments. Federal supervision and control have uniformly been required since 1911, and seem to have become an integral part of the subsidy system. A dangerous decentralizing tendency has lately manifested itself, however, in the form of a bill authorizing the distribution among the states of one hundred million dollars of federal funds for the promotion of education. This proposed bit of legislation, popularly known as the Towner-Sterling Bill, contains the provision that "all the educational facilities encouraged by the provisions of this Act and accepted by a State shall be organized, supervised, and administered exclusively by the legally constituted State and local educational authorities of said States, and the Secretary of Education shall exercise no authority in relation thereto; and this Act shall not be construed to imply Federal control of education within the States, nor to impair the freedom of the States in the conduct and

14. Orfield, M. N., op. cit., p. 87.

management of their respective school systems."[15] In other words, the federal government is to give away unconditionally one hundred millions of dollars to the states, without reserving even the right of protest if the recipients squander their allotments as they squandered other grants similarly given in the early years of the nineteenth century. The bill as originally introduced was defeated, and it seems to have fared but little better in the present Congress. Unfortunately, however, it is supported by a number of powerful national organizations, including the National Education Association, the American Federation of Labor, and the National League of Women Voters. The passage of the measure would mark a reactionary tendency in American administration, for the expenditure of federal funds cannot safely be entrusted to state and local officials without some degree of federal supervision.

The fourth question deals with the proper bases upon which federal subsidies are to be allotted to the states. At the present time most of the grants are distributed according to population—rural, urban or total. This arrangement is unsatisfactory. Local needs should be the basis of every subsidy, but the population of a state does not necessarily indicate its need of federal assistance. Two factors determine the extent to which a state requires federal aid, and each of them should be considered in apportioning subsidies. One of these factors is the state's need of the governmental function for which the subsidy is granted; the other is its per capita income. To give a simple example, New York's share of the highway subsidy should be determined in part according to its need of roads, and in part according to its ability to pay for them. Such a system of apportionment would alleviate to some extent the extreme inequalities in the tax burdens of the several states.

A recapitulation may now be made of the principles which should underlie the American subsidy system:

15. H. R. 7, 67th Congress, 1st Sess.

1. Subsidies should be granted for those functions of government which the states cannot or will not carry out adequately without the stimulus of federal supervision and federal funds.

2. The percentage borne by the nation of the total expenditures for any function of government should be as small as possible consistent with the securing of adequate federal supervision and control.

3. The federal government should demand the right to superintend and direct the expenditure, not only of its grants to the states, but of all funds from whatever source administered by the state co-operating agencies.

4. Subsidies should be apportioned according to local needs.

Subsidies to the state governments have become an established and essential part of American federal administration. The states have found them such potent arguments in favor of accepting the authoritative advice and criticism of the federal government that there can be no thought of abandoning the system. But Congress must determine without delay the principles on which subsidy legislation is to be based. The allotments are increasing every year in number and amount, and if they are granted without rule or reason the American subsidy system will soon contain more absurdities and complexities than even the British grants in aid. If, on the other hand, wise and intelligent principles are permitted to guide the future distribution of federal funds, a national minimum of efficiency and economy may be set up without the sacrifice of the autonomy of the states.

BIBLIOGRAPHY

OFFICIAL PUBLICATIONS

Canada Year Book, 1920 ..... Ottawa, 1921
Congressional Globe
Congressional Record
Department of Agriculture
    Reports and bulletins of the
        Bureau of Agricultural Economics (Markets and Crop Estimates)
        Bureau of Plant Industry
        Bureau of Public Roads
        Forest Service
        States Relations Service
Department of the Interior
    Reports and bulletins of the
        Bureau of Education
        Children's Bureau
        General Land Office
Federal Board for Vocational Education
    Reports and bulletins
Financial Statistics of States, 1919 ..... Washington, 1920
Journals of Congress
Navy Department
    Reports and bulletins of the
        Bureau of Navigation
Reichs Gesetz Blatt ..... Berlin
State Agricultural Colleges, annual reports
State Departments of Agriculture, annual reports
State Departments of Education, annual reports
State Experiment Stations, annual reports
State Forestry Bureaus, annual reports
State Highway Departments, annual reports
Statutes at Large
Treasury Department
    Reports and bulletins of the
        Public Health Service
United States Documents
United States Interdepartmental Social Hygiene Board
    Reports and bulletins
United States Supreme Court Reports

SECONDARY SOURCES

Adams, C. F. ..... New York, 1878
Railroads, their Origin and Problems
Ashley, Percy ..... London, 1905
English Local Government
Badley, J. H. ..... Oxford, 1917
Education after the War
Balfour, Graham ..... Oxford, 1903
Educational Systems of Great Britain and Ireland
Barthelemy, Joseph ..... Paris, 1919
Le Gouvernment de la France
Bodley, John Edward Courtenay ..... London, 1898
France, 2 vols.
Bryce, James ..... New York, 1914
American Commonwealth, 2 vols., Rev. Ed.
Bryce, James ..... New York, 1921
Modern Democracies, 2 vols.
Cannon, Henry L. ..... London, 1902
Sanitary Inspectors' Guide
Chardon, Henri ..... Paris, 1911
Le Pouvoir Administratif
Cholmeley, R. F. ..... London, 1913
Secondary Education in England
Cole, G. D. H. ..... London, 1921
Future of Local Government
Desbats, A. Gabriel ..... Paris, 1911
Le Budget Departmental
Egerton, H. E., and Grant, W. L. ..... London, 1907
Canadian Constitutional Development
Fosdick, R. B. ..... New York, 1915
European Police Systems
Germann, George B. ..... New York, 1899
National Legislation Concerning Education
Gray, H. B. ..... London, 1913
Public Schools and the Empire
Grice, Watson ..... London, 1910
National and Local Finance
Hadley, A. T. ..... New York, 1899
Railroad Transportation: Its History and its Laws
Haney, L. H. ..... Madison, Wis., 1908
Congressional History of Railways
Hollister, Horace A. ..... New York, 1914
The Administration of Education in a Democracy

Hovre, Fr. ..... New York, 1917
German and English Education
James, E. J. ..... New York, 1910
Origin of the Land Grants of 1862
Jones, G. E., and Sykes, J. C. G. ..... London, 1903
Education in England and Wales
Keith, Arthur B. ..... Oxford, 1912
Responsible Government in the Dominions, 3 vols.
Keith, J. A. H., and Bagley, W. C. ..... New York, 1920
The Nation and the Schools
Laut, Agnes C. ..... Indianapolis, 1915
The Canadian Commonwealth
Lawson, W. R. ..... London, 1905
John Bull and His Schools
Lee, W. L. M. ..... London, 1901
History of Police in England
Lefroy, A. H. ..... Toronto, 1913
Canada's Federal System
Lowell, A. Lawrence ..... New York, 1908
Government of England
MacLean, A. H. H. ..... London, 1909
The Law of Secondary Schools
Magnus, Sir Philip ..... London, 1910
Educational Aims and Efforts, 1880-1910
Maxwell, William ..... London, ?
Canada of To-day
Morrison, C. E. ..... New York, 1908
Highway Engineering
Munro, A. C. ..... London, 1898
Public Health Administration in England and Scotland
Munro, J. E. C. ..... Cambridge, 1889
The Constitution of Canada
Orfield, Matthias Nordberg ..... Minneapolis, 1915
Federal Land Grants to the States
Page, S. W. ..... New York, 1913
Roads, Paths and Bridges
Redlich, Josef, and Hirst, F. W. ..... London, 1903
Local Government in England, 2 vols.
Riddell, William R. ..... New Haven, 1917
The Constitution of Canada
Rockwell, A. P. ..... New York, 1896
Roads and Pavements in France

Sait, Edward McChesney ..... Yonkers, 1920
Government and Politics of France
Sandiford, Peter, ed. ..... London, 1918
Comparative Education
Shaler, N. S. ..... New York, 1896
American Highways
Stewart, R. M. ..... Iowa City, 1914
Co-operative Methods in the Development of School Support in the United States
Stone, Roy ..... New York, 1894
New Roads and Road Laws in the United States
Swift, F. H. ..... New York, 1911
Public Permanent Common School Funds
Webb, Sydney ..... London, 1920
Grants in Aid: A Criticism and a Proposal, Rev. Ed.

PERIODICALS AND NEWSPAPERS

(Signed Articles)

Arneson, B. A.
"Federal Aid to the States," in the American Political Science Review, XVI, pp. 443-54

Bourinot, John G.
"Federal Government in Canada," in Johns Hopkins University Studies in Historical and Political Science, VII

Bourinot, John G.
"Parliamentary Government in Canada," in Annual Report of the American Historical Association, 1891

Callender, G. S.
"Early Transportation and Banking Enterprises of the States in Relation to the Growth of Corporations," in the Quarterly Journal of Economics, v. 17, pp. 3-54

Douglas, Paul H.
"Development of a System of Federal Grants in Aid," in the Political Science Quarterly, v. 35

Jenks, J. W.
"Road Legislation for the American State," in the American Economic Association Publications, v. 4, no. 3

Kandel, I. L.
Educational Review, December, 1918

Lapp, John A.
"Highway Administration and State Aid," in the American Political Science Review, 1916, v. 10, pp. 735-38

Martin, W. E.
"Internal Improvements in Alabama," in Johns Hopkins University Studies in Historical and Political Science, XX, no. 4
Sutherland, Douglas
"Federal 'Aid,'" Supplement to Bulletin no. 44 of the Civic Federation of Chicago
Wanlass, Wm. L.
"The United States Department of Agriculture," in Johns Hopkins University Studies in Historical and Political Science, XXXVIII, no.1

(Unsigned Articles)

London Times, May 24, 1912
National Education Association Reports
National Service, 1921, 1922
Philadelphia Public Ledger, May 5, 1922
St. Louis Post-Dispatch, March 19, 1922